



ENVIRONMENTAL ASSESSMENT BOARD

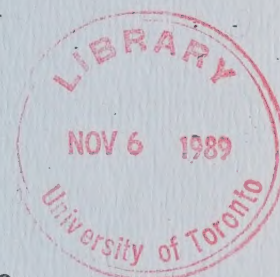
VOLUME: 152

DATE: Wednesday, October 25th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Wednesday, October 25th,
1989, commencing at 8:00 a.m.

VOLUME 152

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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I N D E X O F P R O C E E D I N G S

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<u>JOHN McNICOL,</u> <u>FRANK D. KENNEDY,</u> <u>J. JOSEPH CHURCHER,</u> <u>RICHARD WILLIAM GROVES,</u> <u>HARTLEY MULTAMAKI,</u> <u>ALBERT BISSCHOP,</u> <u>ROGER W. DAVISON,</u> <u>ROBERT THOMAS FLEET,</u> Resumed	26176
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1 ---Upon commencing at 8:05 a.m.

2 THE CHAIRMAN: Good morning. Be seated,
3 please.

4 Mr. Freidin?

5 MR. FREIDIN: I have three matters I
6 would like to deal with before the cross-examination
7 begins.

8 Firstly, in relation to Panel 16, Ms.
9 Murphy advises that the Board might want to refresh its
10 memory in relation to Exhibit 381, this is in advance
11 of Panel 16, that is the ESSA 1 Document; and, as well,
12 Exhibit 433 which is the Featured Species Management in
13 Ontario paper which was authored by Mr. Baker and Dr.
14 Euler spoken to in Panel 10.

15 THE CHAIRMAN: What number is that again?

16 MR. FREIDIN: 433.

17 THE CHAIRMAN: Thank you.

18 MR. FREIDIN: The second matter, Mr.
19 Chairman, I think the only word which now is
20 threatening Baskerville as showing up more in the
21 transcript than any others is focus, and to assist in
22 that regard the Ministry has prepared an index to its
23 draft terms and conditions.

24 I would like to provide you with copies
25 of those, I have copies for the parties as well. It's

1 entitled Index of Terms and Conditions. So if people
2 perhaps would mark on Draft Terms and Conditions of
3 MNR, others may wish to follow a similar...

4 THE CHAIRMAN: So this will just go on to
5 Exhibit 700; is that right?

6 MR. FREIDIN: Yes. (handed)

7 The last matter, Mr. Chairman, you
8 understand all too well that I have engaged in the
9 undertaking of singing on occasions. I have considered
10 the potential environmental effects of doing that, I
11 have considered the alternatives, I will not document
12 the analysis, my decision is that there will be a
13 reserve; in other words, there will be no operations.
14 I just take this opportunity to wish Mr. Bisschop a
15 happy birthday.

16 THE CHAIRMAN: Thank you. The Board
17 extends its best wishes as well, Mr. Bisschop.

18 MR. BISSCHOP: Thank you.

19 THE CHAIRMAN: Just before we start,
20 while we are on procedural matters, with respect to the
21 scoping sessions for Panel 17 and also for Dean
22 Baskerville's evidence, we have reviewed the schedule
23 for the hearing and believe that the parties should in
24 fact be scoping Dean Baskerville's evidence prior to
25 Panel 17, since it is unlikely we are going to reach

1 Panel 17 all that quickly, and we are suggesting that
2 the statements of issue for Dean Baskerville's evidence
3 be delivered by November the 3rd, with a scoping
4 session to take place on either the 7th or 8th of
5 November.

6 We have to contact Mr. Turkstra to see
7 when he's available on one of those two days and we
8 will advise you next week of which day the scoping
9 session will take place.

10 With respect to the Panel 17 evidence, we
11 would like the statements of issue to be due on
12 November the 17th and we would hold a scoping session
13 with respect to that panel on November 22nd.

14 With respect to the commencement, Mr.
15 Cosman, of your client's evidence, we are not sure at
16 the present time exactly when we will reach your side
17 of the case; however, we would suggest that the best we
18 can do is that you will have to keep fully informed
19 from Mr. Freidin as to exactly when his case is going
20 to conclude.

21 As the parties will find out later this
22 morning when we hand out our draft ruling with respect
23 to the procedural matters we discussed earlier in the
24 week, we are going to be setting aside two weeks in
25 February for a negotiating session on the part of the

1 parties and that will take place during the two weeks
2 commencing with February 19th. Whether or not we in
3 fact reach the Industry's side of the case prior to
4 that, we don't know, and into March we will be getting
5 into the March break as well.

6 We expect that you will be reached, Mr.
7 Cosman, but we can't give you a precise date. We are
8 fairly confident, put it that way, that you will not be
9 reached by January the 9th.

10 And that, Mr. Freidin, is on the basis
11 that you may be electing to put in another plan and, if
12 so, that will take a certain amount of time to deal
13 with; and, secondly, you mentioned yesterday that you
14 would also be discussing the possibility of putting in
15 further evidence with respect to the clearcut issue
16 and, of course, we have the remaining two witness
17 panels to go as well.

18 MR. COSMAN: Mr. Chairman, if I may. It
19 is going to cause us extreme difficulty if we don't
20 know. There are people running companies, going to
21 Frankfurt to try to sell things and it's just -- and I
22 realize the Board is in the position where it doesn't
23 know when the MNR case is going to finish and that is
24 our difficulty.

25 I had a discussion yesterday after the

1 hearing with Mr. Freidin and he feels at the outside
2 his case would be finished, subject to the usual
3 problems that might present themselves, by the end of
4 January.

5 If that were the case, it would seem to
6 me that rather than put off the negotiating session, if
7 the negotiation session were to follow the MNR case,
8 say for a two-week period, and I could then be ensured,
9 organize my people, that they would start say
10 mid-February, February the 15th or whatever the Monday
11 is or Tuesday is, that would give us those two weeks
12 before the case to negotiate.

13 And if it happens to be two and a half
14 weeks, because he finishes a little earlier, for
15 negotiation, all the better; if it happens to be 10
16 days instead of 14 days, it's not going to make a great
17 deal of difference.

18 THE CHAIRMAN: We considered that, Mr.
19 Cosman, and the difficulties we ran into in discussing
20 precisely that, moving up the negotiation sessions, are
21 the concern that; firstly, we would then have to move
22 up, in our view, the date for the parties, all of the
23 parties to be submitting their draft terms and
24 conditions. Right now we have set that as January
25 30th. Now, the problem of moving that up is it will

1 cause some other parties some difficulties in
2 formulating the conditions at an earlier stage.

3 Secondly, we would expect that the
4 parties will need a short period of time after
5 receiving all of the conditions to, firstly, be able to
6 read them and appreciate what they are but, secondly,
7 to in some cases be receiving instructions from their
8 clients.

9 We want the negotiating sessions to be
10 fruitful and we want the parties to go into those
11 sessions knowing what their bottom lines are and what
12 their positions are and what, in fact, they can
13 negotiate away.

14 And in some instances parties, I would
15 suspect, including the Ministry, are going to have to
16 receive instructions from their clients and they will
17 want to receive those instructions, I would suspect, by
18 being able to put before their clients the specific
19 details concerning the terms and conditions of other
20 parties; otherwise you are going to be getting into, we
21 feel, these negotiating sessions and have to go back to
22 your clients on the basis of the conditions that have
23 been submitted in the first instance. And we don't
24 feel that those sessions are going to be as fruitful as
25 they might otherwise be had all the parties had an

1 opportunity to review the conditions with their
2 clients.

3 So that was the reason for saying that if
4 the conditions from all parties are due on January
5 30th, then the negotiating session should start in
6 earnest on February the 19th.

7 MR. COSMAN: Perhaps, Mr. Chairman, then,
8 as we move along in the hearing you will be in a better
9 position to perhaps give us that direction. The
10 difficulty, as you know, is that we don't have people
11 sitting around, they are all doing other jobs to try to
12 keep their companies operating and surviving.

13 THE CHAIRMAN: Well, we realize that, but
14 we were considering that should we finish early with
15 the evidence of the proponent's case and should we be
16 in a position to go ahead, then you would be looking at
17 probably not going further than your first panel of
18 evidence--

19 MR. COSMAN: Before the negotiating
20 session.

21 THE CHAIRMAN: --before we are into the
22 negotiation session and then you are into, shortly
23 after that, the March break but, in any event, you
24 would only be looking at perhaps, at the outside, your
25 first panel. And that is the panel that you might have

1 to sort of keep on hold as to when you might start;
2 certainly not the rest of the panels that you would be
3 dealing with, and there is some nine further panels as
4 I understand it, and the witnesses and your clients
5 involved in those panels would certainly be following
6 likely after the March break.

7 MR. COSMAN: Thank you, Mr. Chairman.

8 THE CHAIRMAN: The other thing is we have
9 no expectation necessarily that you are going to finish
10 by the end of January.

11 MR. FREIDIN: Two matters in relation to
12 the scoping, Mr. Chairman. The statements of issue for
13 Panel 17 being November the 17th, is the date I think
14 you indicated, and I think you said the scoping would
15 be on the 27th.

16 THE CHAIRMAN: The 22nd.

17 MR. FREIDIN: The 22nd, thank you. And,
18 Mr. Chairman, if I might. In relation to the date for
19 the statements of issue for panel -- pardon me, for
20 Dean Baskerville, I am wondering whether we could move
21 that a little later. And the reason I ask for that is
22 that I am going to be the person doing that
23 cross-examination and I have to be involved obviously
24 in preparing that statement of issues.

25 I have a lot of things on my plate and

1 really can't give that the kind of attention that it
2 would require. I think, seeing it's one witness or
3 one-witness panel, the usual length of time perhaps in
4 advance may not be necessary. I am wondering whether
5 we could move the statements of issue date perhaps into
6 the middle of next week. I am hoping Panel 15 is going
7 to end next week, I can then spend some time on that
8 matter.

9 THE CHAIRMAN: All right. So when would
10 you suggest?

11 MR. FREIDIN: Say having them in on the
12 9th and scoping in the middle of the next week.

13 MR. COSMAN: What date is that?

14 MR. FREIDIN: I am looking at Thursday
15 the 9th for the statements of issue and scoping on,
16 say, the 15th.

17 THE CHAIRMAN: All right. We will set
18 November 9th for the date the statements of issue are
19 due. We will have to confirm with Mr. Turkstra as to
20 whether or not he's available on the 15th.

21 MR. FREIDIN: Thank you very much, Mr.
22 Chairman.

23 THE CHAIRMAN: We will confirm that
24 later.

25 MS. BAIR-MUIRHEAD: Good morning, Mr.

1 Chairman.

2 THE CHAIRMAN: Good morning, Ms.

3 Bair-Muirhead.

4 JOHN McNICOL,
5 FRANK D. KENNEDY,
6 J. JOSEPH CHURCHER,
7 RICHARD WILLIAM GROVES,
8 HARTLEY MULTAMAKI,
9 ALBERT BISSCHOP,
10 ROGER W. DAVISON,
11 ROBERT THOMAS FLEET, Resumed

12 MS. BAIR-MUIRHEAD: Good morning, Panel.

13 Mr. Chairman, I would like to begin this
14 morning by making a preliminary comment; and, that is,
15 that based on the comments of the Board, I have chosen
16 to focus my questions for cross-examination on the
17 draft terms and conditions filed by the proponent.

18 My purpose in doing that is to focus and
19 highlight some of the areas where we feel that there
20 are the greatest deficiencies in the planning process
21 proposed by the Ministry.

22 And having said that, that is not to say
23 that when we fail to highlight a particular term or
24 condition it can be taken that we are in agreement with
25 that term or condition. We are merely focusing on
areas which cause us the greatest concern and, of
course, you will have our own proposed terms and
conditions in due course.

1 If I could begin then with Mr. Kennedy.

2 CROSS-EXAMINATION BY MS. BAIR-MUIRHEAD:

3 Q. Mr. Kennedy, you were asked certain
4 direct questions by Mr. Edwards concerning having a
5 member of the tourist industry as a member of the
6 planning team, and I am focusing now on term and
7 condition No. 1, of course, The Planning Team.

8 And I am would ask you, sir, a similar
9 question: Would it not make sense to have a member of
10 a group of people who live directly in the forest being
11 managed and who, to a very large extent depend on the
12 forest, or the inhabitants of the forest for their
13 livelihood; namely, native communities or bands, to be
14 represented on the planning team?

15 MR. KENNEDY: A. Well, you are right in
16 that we've discussed that with Mr. Edwards during his
17 cross-examination and that we at that time were
18 replying we feel that there is ample opportunity for
19 people to become involved during the four formal public
20 consultation opportunities that we provide as part of
21 developing the plan.

22 And, in that regard, we feel it's
23 important to keep the size of the planning team to a
24 workable size that can produce the plan in an efficient
25 manner and that it's not necessary, as a requirement in

1 all cases, to expand that planning team membership
2 either to include representatives of all stakeholders.

3 Q. Right.

4 A. We do from time to time use advisors,
5 as we have indicated, to provide special expertise and
6 those individuals can be named at the outset of
7 planning in areas to provide expertises, so that avenue
8 is open.

9 Q. All right. And another question in
10 relation to that, and that is with respect to the
11 administrative steps that are involved prior to the
12 invitation to participate being sent out to the general
13 public.

14 And I think you went on to indicate to
15 Mr. Edwards in his cross-examination of you that you
16 considered the setting of the terms of reference to be
17 a significant step in that administrative process.

18 And if I could ask you to turn to Exhibit
19 813A on page 254 and on the top of that page under
20 Responsibility and then Planning Team No. 12.

21 All right. And that indicates that:

22 "The terms of reference must include as
23 minimum requirements an outline of:"

24 And then it goes on to designate certain
25 items, No. (g) being:

1 "Possible issues or conflicts."

2 Now, my question to you, Mr. Kennedy, is:
3 Would you not agree that setting out possible issues or
4 conflicts is a significant component within the terms
5 of reference, setting the agenda, if you will, for
6 discussion?

7 A. Yes, I do think it's an important
8 step.

9 Q. And in fact identifying those
10 possible terms -- rather, issues and conflicts may in
11 fact have some impact; will it not, on the membership
12 of the planning team?

13 A. Yes. I believe that is the thinking
14 behind having the issues or conflicts identified early
15 on, so that you can identify appropriate people to be
16 available on the planning team to deal with those.

17 Q. And it may also lead you to
18 appropriate identification of team advisor or potential
19 team advisors?

20 A. Yes, I would say that would follow
21 through.

22 Q. All right. Are members or advisors
23 ever added after the terms of reference have been
24 approved? I am asking that because it seems to me that
25 if in fact terms of reference which include

1 identification of potential conflicts or issues are
2 identified early on; that is, before you issue a
3 general invitation to the public to participate, if in
4 fact it comes to light that there are additional
5 conflicts or issues that ought to be addressed, do you
6 then add members or advisors to your planning time to
7 take that into account?

8 A. I can't think of any specific
9 situation -- or, sorry, I am not aware of any situation
10 where that has happened. I would suggest that that may
11 be one of the logical things that would be considered
12 if a new problem did arise after the planning team had
13 been struck.

14 Mr. Groves?

15 MR. GROVES: A. I think, Ms.
16 Bair-Muirhead, I might be able to -- on the Trout
17 Forest planning team partway through the development of
18 the planning team we realized we were lacking in
19 knowledge in a specific area to a problem that came up
20 and we did bring a separate advisor in, I would say
21 about halfway through the process, to assist us in
22 looking at a problem and issue that had arisen.

23 Q. All right. Thank you, Mr. Multamaki
24 (sic). Mr. Kennedy, if I might pursue this just a
25 little further. I believe you were asked a question in

1 direct examination by Mr. Freidin, and if I might just
2 refer to the term and condition that is in question.

3 All right. And that is No. 1, the last sentence:

4 "For Ministry prepared-plans the district
5 manager may invite representatives from
6 forest companies operating on the forest
7 management unit to act as advisors to the
8 planning team."

9 And I believe that you were asked by Mr.
10 Freidin as to the rationale behind having a
11 representative from the forest companies added to your
12 advisory list, or to sit as advisors in those
13 circumstances.

14 And, I'm sorry, I don't have the volume,
15 but the page in the transcript is 22944, but I think I
16 have got it verbatim. Your answer to that was that:

17 "The industry is the consumer of the wood
18 and that it was important to include them
19 in the planning team discussions where
20 they could bring first-hand information
21 on the nature of the materials that they
22 see fit for their particular operations,
23 as well as to provide insight into
24 factors such as economics of certain
25 practices that may be being discussed at

1 the team meetings and allow them to, up
2 front during the planning stages, have an
3 opportunity to advise the team on them."

4 And you went on to indicate that you
5 thought it would be very helpful to have that up front
6 during the discussions in the multi-disciplinary
7 setting as opposed to occurring at some future time.

8 Now, the reason I raise that particular
9 statement by you, or rationalization by you is that I
10 would like to ask you: Do you not agree that those
11 very same comments that you have made with respect to
12 having the industry sit as advisors could apply to
13 native communities and bands? In other words...

14 MR. KENNEDY: A. I see --

15 Q. Go ahead.

16 A. I see a distinct difference in that
17 the comments that I made, although I was not specific
18 in my discussions of economics, what I was referring to
19 at that time was the market conditions that exist
20 relative to the products that are available from a
21 management unit.

22 And we are speaking here of
23 Ministry-prepared plans, those are plans on Crown
24 management units, and that expertise in the marketplace
25 is not readily available within the Ministry in that

1 our staff do not regularly deal with that. And that is
2 one of the aspects that we look to company advisors or
3 we have developed this portion of the draft term and
4 condition to address that element of having ready
5 access to market information that the forest industry
6 people can advise us on. And it's that end of it that
7 we were addressing in this term and condition.

8 Q. All right. But do you not agree that
9 other groups, native groups in particular, would have
10 important things to say, for example, about the
11 economic impacts of certain proposed timber management
12 activities, for example?

13 A. Well, I think that all stakeholders
14 bring that kind of expertise to the planning team's
15 attention.

16 Q. All right, thank you. Now, Mr.
17 Kennedy, would it be appropriate to identify the forest
18 industry as a key user of the timber resource, and I am
19 referring to that term as it was used by Mr. hunter
20 yesterday. Is that interchangeable with them being a
21 consumer of the wood product?

22 A. I think there would be some
23 similarities in the term. The term 'key user' was new
24 to me yesterday when I was -- yesterday or the day
25 before, when I had a chance to look at the Fisheries

1 Management Planning Manual. I think there is some
2 similarities there, yes.

3 Q. All right. Well, perhaps, Mr.
4 Bisschop, I should turn to you on this.

5 You were asked a question by Mr. Hunter
6 yesterday relating to the identification of native
7 people as key users under the fisheries planning
8 manual. And he noted that that term was not used in
9 the Class EA Document or any other documentation
10 forming a part of the timber management planning
11 process.

12 And the question he asked was: Why were
13 native people identified as key users for the purposes
14 of the fisheries document but not any of the timber
15 management planning documents. And I think, Mr.
16 Bisschop, that your answer was that there was a
17 recognition of traditional use of fisheries resource by
18 native people and that that was not the case with the
19 timber resource.

20 And I would like to ask you, Mr.
21 Bisschop: Would your answer change, or would you be
22 more prepared to recognize native people as key users
23 for the purposes of the timber management process if
24 you were convinced that there was, in fact, a long
25 traditional use of the timber resource, including

1 logging, by native people?

2 MR. BISSCHOP: A. I think my comment
3 yesterday was probably in terms of relativity, or scale
4 I guess, in the sense that in terms of the use of the
5 fisheries resource, I made the comment that the native
6 communities have a historical and traditional major, if
7 you will, use of the fisheries resource.

8 I am not sure that -- I wouldn't equate
9 the same use of the timber resource in the sense that
10 in terms of scale relative to other key users of the
11 timber resource that the native communities are major
12 users of that resource.

13 I think that is the kind of comment I was
14 trying to get across, the matter of relativity.

15 Q. All right. So --

16 A. And I think for fisheries it's --
17 there's understanding and acknowledgement that native
18 communities are key users.

19 Q. All right. So your comment then is
20 that -- or your answer is that your understanding is
21 that there is not the same scale in terms of
22 traditional use of the timber resource?

23 And I guess what I am asking you is: If
24 you could be shown that there is, in fact, a similar
25 scale with respect to traditional use by native people

1 of the timber resource, would that change your
2 perspective with respect to designating them as key
3 users of the timber resource?

4 A. In terms of recognizing in timber
5 management plans as--

6 Q. Yes.

7 A. --key users?

8 Q. That's right, yes.

9 A. Yes, I could acknowledge that.

10 Q. Mr. Multamaki, if I could turn to
11 you, please. And in reference to Exhibit 814, and that
12 is Book 5 at page 115.

13 MR. FREIDIN: 115?

14 MS. BAIR-MUIRHEAD: Yes, page 115.

15 Q. And that relates a little to my
16 previous question concerning advisory -- whether or not
17 advisory people are added once other issues are
18 identified. If you could look at that list of
19 potential resource personnel.

20 MR. MULTAMAKI: A. Yes.

21 Q. All right. And I notice there that
22 aside from representation of various Ministry personnel
23 from -- and other ministries such as Citizenship and
24 Culture and Tourism and Recreation, you have --

25 MS. BAIR-MUIRHEAD: Are people having

1 trouble finding this?

2 MR. FREIDIN: Yes. What book is this?

3 MS. BAIR-MUIRHEAD: Book 5, page 115.

4 MR. FREIDIN: Thank you.

5 MS. BAIR-MUIRHEAD: Of Exhibit 814.

6 Q. You will see a reference, for
7 example, to Rod Mumford, President of the Northern
8 Ontario Tourist Outfitters and Pat Sayeau, Chairman,
9 Red Lake District Chamber of Commerce, and various
10 other local timber operators.

11 There is no mention on this list of
12 potential resource personnel of any members of any
13 reserves or Band Councils.

14 MR. MULTAMAKI: A. Yes. However, I
15 should clarify that the Red Lake Crown Management Unit
16 does not contain any reserves within its boundaries.
17 The closest reserve in fact is Pikangikum which is, I
18 would guess, about a hundred miles north of the Town of
19 Red Lake and, in fact, it's not road access, fly-in
20 only.

21 As well, I should point out that under
22 local timber operators at the time it included the
23 Indian Friendship Centre which, it was our
24 understanding, that represented a wide range of bands,
25 in fact, they did have a smaller timber harvesting

1 operation on the Red Lake Crown Management Unit at that
2 point in time and it was the planning team's feeling
3 that should we require direction with respect to native
4 issues, we would have access to that through the Indian
5 Friendship Centre and their representation of the bands
6 in the area.

7 Q. All right. Well, maybe I should ask
8 this question in general and I can open it to other
9 members of the panel; that is, if you routinely include
10 band members within the area affected by the plan as
11 resource personnel for the planning team?

12 Can anyone else answer that question?
13 You had indicated that you don't have any reserves
14 within the Red Lake--

15 A. That's correct.

16 Q. --Crown Management Unit. For areas
17 where there are reserves within the geographical
18 boundaries of a unit, are band members routinely
19 included?

20 A. It's been my experience that band
21 members have been involved in the process both as, I
22 guess, participants through the public opportunities --
23 public input opportunities and in a number of cases
24 they have been advisors as well.

25 MR. GROVES: A. I might also be able to

1 add to that, in that Chapleau they weren't really
2 officially entitled resource advisors because at that
3 point in time we had no resource advisors on the actual
4 terms of reference, but we did meet with the local
5 bands on several occurrences during the planning
6 process to discuss the plan and several problems and
7 issues that had arisen during the planning process.

8 MR. DAVISON: A. And I would like to add
9 one thing to that. The same as Mr. Groves has
10 mentioned, we didn't have advisors for Terrace Bay
11 District, but we met with members of the Pic/Heron Bay
12 Band on several occasions when developing the Black
13 River Forest Plan as well. So they weren't identified
14 as such, but we met with them and discussed the plan
15 and the plan preparation.

16 Q. So that is not in any way formally
17 integrated into the process, that is something that you
18 took some initiative to do?

19 A. That's correct.

20 Q. Okay. Mr. Fleet, you were asked by
21 Mr. Edwards I believe whether in fact you felt there
22 was any problem in having a wider circulation of
23 minutes and memorandum flowing from the planning team
24 meetings than exists at the present time.

25 And I understand it that those minutes

1 are distributed to plan advisors and planning team
2 members and that is the limit of their distribution; is
3 that correct?

4 MR. FLEET: A. Generally, yes.

5 Q. All right. Then you advised, I think
6 in response to that question, that the planning team
7 would have to be more cautious in the preparation of
8 the minutes because presently they included things that
9 were of a discussion nature and which were not
10 decisions but, in fact, could be interpreted as such.
11 Is that your response?

12 A. Yes, that is my response.

13 Q. And I think you went on to say that
14 you thought a wider circulation could perhaps
15 unnecessarily sound sirens or raise flags; is that the
16 term you used?

17 A. Sounds pretty close.

18 Q. All right. Wouldn't you agree, Mr.
19 Fleet, that the real advantage of a particular group in
20 being a member of the planning team, or acting as an
21 advisor so that they would either be present or would
22 be in receipt of those minutes, is that in fact they
23 are privy to the discussions that are taking place and
24 which, although they are not decisions, certainly form
25 part of the process?

1 A. Yeah, I would agree with that. The
2 difficulty is then defining how many people can attend
3 a planning team meeting as members or as advisors. It
4 becomes very difficult to put a cap on how many may
5 want to be involved.

6 Q. All right. Well, I am not in
7 particular referring to people actually sitting on the
8 planning team here, I am really referring to
9 distribution of minutes which is going to set out what
10 kinds of discussions took place, what deliberations
11 took place in arriving at a particular decision, and I
12 am saying: Is there not an advantage to being privy to
13 those sorts of discussions? You understand then the
14 underpinning, the basis for the decisions being made in
15 a more detailed fashion.

16 A. Clearly there could be an advantage
17 to being privy to those discussions. Those discussions
18 in and of themselves may too raise flags and sound
19 sirens.

20 Q. All right. Well, I am going to
21 suggest to you, Mr. Fleet, that in raising the
22 objection to a wider circulation of the planning team
23 minutes that really what you are saying is that you
24 prefer to sanitize the information that is provided to
25 the public at large as to how decisions are really

1 made. Can I have your comment?

2 A. I don't think I understand what you
3 mean by sanitize. If you can repeat it or rephrase
4 that perhaps I might be able to comment.

5 Q. Sure. You are saying that you would
6 prefer either -- well, really your preference is that
7 the public not have, or a wider group of people not
8 have the advantage of receiving those minutes because -
9 and I am suggesting that your real motive in saying
10 that is because you don't really want the public to
11 know how in fact you do reach decisions?

12 A. No, I don't think I could agree with
13 that at all and, in fact, perhaps one of the other
14 points that I neglected to include when I suggested
15 that a wider circulation of meeting minutes may not be
16 desirable or it may have some disadvantages, the
17 advantages may outweigh the disadvantages, I was
18 highlighting that there may be some disadvantages to
19 circulating meeting minutes.

20 Often one would need access to - I hazard
21 to use the phrase - but supplementary documentation to
22 accompany meeting minutes which would be accessible,
23 for example, to planning team members and to be
24 meaningful minutes. They wouldn't be meaningful as
25 stand-alone documents, you would also need reference to

1 other reference material that would be available, for
2 example, in a district office. So that for minutes to
3 be entirely meaningful to a wider distribution of
4 people, there would have to not only be the
5 distribution of minutes but perhaps also all kinds of
6 additional reference material and you get into a very
7 large paper chase.

8 Q. Well, surely that should be left
9 though to members who receive this distribution to say:
10 Here's a potential issue, I would like to follow this
11 up, there is something raised in the discussion which
12 concerns me, I think I should get in touch with certain
13 members of the planning team or perhaps look at the
14 supplementary documentation involved.

15 I mean, I don't see that as being an
16 overwhelming problem; do you?

17 A. Well, I get paid to read all of that
18 stuff and it's a fairly big challenge for myself. For
19 a member of the public, I would suggest it might be
20 even a bigger challenge.

21 But I guess the point I am making is that
22 I am not ruling out the possibility, I am just simply
23 identifying that there are some possible disadvantages
24 and some possible complications to simply distributing
25 minutes of meetings to the public at large or to a

1 wider group of individuals. There may be some
2 advantages that clearly outweigh those disadvantages.

3 THE CHAIRMAN: Mr. Fleet, are there
4 minutes appended to the documentation that is available
5 at the public information sessions?

6 MR. FLEET: There are minutes included in
7 the supplementary documentation, yes.

8 THE CHAIRMAN: So if in fact the public
9 is receiving the minutes, albeit at a later stage; in
10 other words, when they come in for the first public
11 information session, then doesn't that, in effect,
12 water down your earlier objection to not sending them
13 out because the minutes that would be appended are in
14 the same form; are they not, as the ones that were
15 distributed to the planning team members and advisors?

16 MR. FLEET: Oh, Mr. Chairman, I don't
17 think it does. In fact, I think it supports what I've
18 said, because then you can see the progression of
19 discussion, and so they won't just get a single
20 preliminary meeting minutes, they may see the minutes
21 of four or five meetings at an information centre, for
22 an example, and they will see the progression of a
23 discussion. So that if they read the first one and
24 they're alarmed we can clearly take them to the second,
25 third or fourth set of minutes and represent how their

1 concerns have been perhaps addressed through planning
2 team discussions and so forth.

3 THE CHAIRMAN: I guess my point is: If
4 they are going to have access -- if the public is going
5 to have access to the minutes in the same form as they
6 were distributed to the planning team members and/or
7 advisors at one of the public information sessions -
8 even though succeeding minutes won't be there in one
9 place where you can take them, as you say, along the
10 progression - if concerns were raised because they
11 received an isolated minute of a particular meeting
12 because it was distributed at the outset, at the point
13 in time that that concern is raised, you can indicate;
14 can you not, to those people how the concerns have been
15 dealt with?

16 You would have to -- I guess my point is,
17 you would have to do it anyways in documenting--

18 MR. FLEET: Yes, and if I recall --

19 THE CHAIRMAN: --the public information
20 sessions and so, consequently, why not just do it at
21 the outset?

22 MR. FLEET: And I think, Mr. Chairman, if
23 I recall what I said previously, I indicated I think
24 that it would require more careful preparation of
25 minutes than perhaps we have traditionally taken, so

1 that they might then be more easily stand alone.

2 MR. KENNEDY: Mr. Chairman, I might
3 advise you that we are talking of considerable large
4 mailing lists in timber management planning plan
5 preparation, so -- the ones that I have been involved
6 with are upwards of 350 members, and I understand that
7 that is becoming relatively small in comparison to some
8 of the larger population centres and that there is a
9 large number of planning team meetings that are held
10 and minutes can be quite lengthy.

11 I am not sure that it's a necessity to
12 have them mailed out to all individuals that are
13 possibly interested in what is happening on the
14 management unit.

15 What we have done though in response is
16 to ensure that the information centres bring forward
17 all the pertinent information and that people have a
18 chance to react to the proposals early, and at that
19 time we provide the planning team members and any other
20 necessary support information that led up to the
21 decisions. We find that --

22 THE CHAIRMAN: Well, without sending them
23 out on a general mailing, what about sending them to
24 those who specifically request documentation containing
25 the particular concern and that is one of the things

1 they would get?

2 MR. KENNEDY: I would say that if there
3 was a request for information pertaining to a
4 site-specific or a concern of a certain subject matter,
5 I think that that would be very worthy to accommodate
6 or address, but I would be concerned -- I would be
7 concerned that there would be blanket requests and that
8 it would become administratively burdensome and not
9 really help us in the preparation of the plan.

10 I can also support Mr. Fleet's comments
11 in regards to raising flags, sounding sirens in that
12 there are many proposals that come forward during the
13 preparation of the plan, the very first being
14 eligibility maps that indicate where operations might
15 proceed for 20 years. There are a large number of
16 people that could be unnecessarily alerted and react in
17 a negative fashion.

18 And we have found that, and my experience
19 has been, once we narrow down the land base to where
20 the operations are planned for the five-year term, and
21 that is the information we take forward at the
22 information centre, that that is the most meaningful
23 use of the public's time to provide input at that
24 point.

25 MR. MARTEL: Well, could I ask a question

1 then. You just said that it is at that point the
2 public want input. It's obvious here, if one looks at
3 it, the two native groups are asking to be part of the
4 planning team, NOTOA is asking to be part of the
5 planning team, the Anglers & Hunters are asking to be
6 part of the planning team.

7 The people who are saying no and saying
8 with fatherly wisdom they can have their input later on
9 down the road is MNR.

10 And the groups are trying to get on the
11 planning team, they are trying to get at minutes, they
12 are trying to get at earlier decisions because they
13 feel maybe it's already a fait accompli.

14 We heard Mr. Hunter yesterday say: Well,
15 we would like to have team meetings so that before
16 decisions are made with respect to the draft plan we in
17 fact should be on board.

18 Now, all of the groups appear to be
19 flying directly in the face of what you are telling us,
20 Mr. Kennedy, and is there not somewhere before we are
21 all through this process that MNR is going to have to
22 accommodate the demands of the rest of the public as to
23 what is good for the forest and not just the MNR?

24 MR. KENNEDY: I have made similar
25 observations, Mr. Martel, and certainly one of the

1 aspects that come to the hearing is to refine and
2 improve the process as we go through. One of the other
3 aspects --

4 MR. MARTEL: But can we stop right there.
5 Because you want them to approve something that is
6 done. That is not what they are asking for. They are
7 asking for input, not approving something that has
8 already been drafted, or terms and conditions which
9 have already been drafted, they are saying: We want
10 input from the beginning. They are not asking to
11 approve something.

12 MR. KENNEDY: I understand that and I
13 believe that -- I do believe that part of the process
14 is to ensure that we have technically feasible
15 proposals for people to react to and that there is a
16 timely fashion for their input. And I don't feel that
17 it's necessary that we expand that opportunity in every
18 case in the province to expand the planning teams.

19 We have indicated that we have other
20 individuals from the community participate as advisors
21 from time to time, we have undertaken to provide a list
22 of those individuals at the request of Ms. Swenarchuk.
23 From some of the earlier responses we have had back,
24 the input from individuals in local situations is quite
25 substantial and in terms of community advisors and, in

1 that regard, I think we do have an element of the
2 process that can accommodate some of those concerns.

3 I do not believe that that -- or, yes, I
4 do not believe that that concern that has been voiced
5 here in the hearing is a universal one.

6 MR. MARTEL: Well, those are the only
7 people we are talking to right now, Mr. Kennedy.

8 While we were in Dryden, we heard some
9 concerns expressed by the public there as well. And I
10 simply say that we seem to be flying in the face of
11 what large group -- representing large masses of
12 people, if you take them all in altogether, we are
13 talking about a large segment of society saying: We
14 want more than just where we approve something, but in
15 fact where we are right in on it from square one.

16 I don't know how you do it. I mean, I
17 don't pretend to have the answer, I am simply saying...

18 MR. KENNEDY: Well, Mr. Martel, I guess I
19 do feel some frustration on this point in that I feel
20 that it's -- to be blunt, I don't think every member of
21 the public has the skills necessary to put together a
22 meaningful proposal in a timber management plan and
23 that it's --

24 MR. MARTEL: Agreed.

25 MR. KENNEDY: And that we, Ministry of

1 Natural Resources staff and trained company staff, are
2 best equipped to put together a first proposal and we
3 have structured the planning process to get that input
4 from local individuals, particularly that local
5 knowledge and local needs, and I think it's a
6 responsible way of going about resource management.

7 MR. GROVES: Mr. Martel, maybe I might
8 wish to add a comment here. And even though the
9 process identifies individuals only really get to see
10 information at the information centre, in reality in
11 districts it's often a slightly different process and
12 we talked about this as being an iterative process.

13 The Red Lake Crown Management Plan is not
14 due for a year and a part yet, but we have already had
15 meetings with several interested parties. The party
16 that I personally had - as we divided up those
17 responsibilities - I have had two meetings already with
18 the local Red Lake Anglers & Hunters Association and
19 the purpose of those meetings was (a) how do you
20 participate, how do you read the maps and information
21 available, and what problems and issues you have with
22 regard to the Red Lake Crown Management Unit area now.

23 And that's been basically two years
24 before the plan actually happens. So we are out there
25 and we are getting those people involved early.

1 Even though the terms of reference for
2 the Red Lake Crown Plan next time aren't even written
3 yet, we are already out there soliciting the input of
4 those individuals.

5 MR. DAVISON: I would just like to add
6 one thing to that as well. My experience as the timber
7 supervisor in Terrace Bay District, I'm on a first name
8 basis with two chiefs that are in the Terrace Bay
9 District and I have attended several of their Council
10 meetings and discussions of timber management
11 activities and this is the story I think in the
12 district -- in the district the story is that we do get
13 out and we do talk to these people and they are
14 involved on a first name basis. I know these people
15 and we talk frequently.

16 MS. BAIR-MUIRHEAD: Q. All right. Just
17 to follow up on a comment made by Mr. Martel.

18 Mr. Kennedy, with specific reference to
19 distribution of minutes, it strikes me as very
20 patronizing for the Ministry to say that the minutes
21 may raise issues that may not be issues later on and
22 that it's the Ministry who will decide that.

23 And surely it should be up to a member of
24 the public to determine whether or not this is
25 something that is an issue for them?

1 MR. KENNEDY: A. Well, I would say that
2 that is certainly the case in terms of issues, or I
3 would suggest a way of -- when we speak of issues in
4 MNR or concerns we are distilling public comment or
5 identifying a technical problem that has existed. So
6 in that regard, yes, the issues are addressed or first
7 raised by members of the public.

8 Q. Well, I will leave that for the
9 moment. I just have one last question which is whether
10 it is a formal requirement to include the minutes as
11 distributed in the supplementary documentation, or is
12 that something that is just done as a matter of
13 practice?

14 A. It's not a formal requirement, it is
15 something that has been commonly done to make them
16 available. They certainly are available and it's a
17 tradition -- I would say also traditional to keep them
18 in correspondence files that we have referred to as
19 part of our supplementary documentation.

20 We have indicated in earlier evidence
21 that there are a number of correspondence files that
22 are kept relative to the entire plan production. That
23 is where I would expect to see the minutes kept. A
24 condensation of all those correspondence files is put
25 into the supplementary documentation.

1 THE CHAIRMAN: Mr. Kennedy, don't you
2 feel that the Ministry has to provide some
3 accommodation in this sense: If you are not going to
4 allow a wide variety of stakeholders to be members of
5 the planning team - and obviously a large number can't
6 even be members of advisory teams because I think the
7 Board agrees, to some extent, it's difficult for
8 committees to function efficiently and effectively if
9 they are too large - if that is the case, isn't there
10 an obligation to at least provide those who would like
11 to be part of the team with the information and with an
12 accounting of what has gone on in their absence, so that
13 if they see that a particular concern is not being
14 addressed to their satisfaction, they then have an
15 opportunity to at least bring it forward in a very
16 timely way to the planning team and not necessarily be
17 waiting for the more formalized opportunities in the
18 public information scenarios which may, in their view,
19 come to too late?

20 MR. KENNEDY: I do believe there is an
21 obligation there, yes, and --

22 THE CHAIRMAN: And I guess what we are
23 discussing is: How can you meet that obligation.

24 MR. KENNEDY: Yes.

25 THE CHAIRMAN: If you believe that there

1 is one.

2 MR. KENNEDY: I think that - and, again,
3 you may feel that I sound like a broken record on this
4 point, but - the information centre is the very first
5 time that there is a proposal being put forward and
6 those proposals being identifying both the areas that
7 are to be operated on during the five-year term as well
8 as the kind of activities that might occur on that
9 area. So that is the first time in which there is
10 something to react to. And, of course, that takes
11 place at the information centres and there is
12 opportunities for the comment.

13 Now, I believe our obligation is that
14 when concerns are raised at that time or indeed if
15 concerns are raised through the initial notice for
16 invitation to participate, that there is an obligation
17 on our part to respond to those people individually and
18 advise them of the manner in which their concern was
19 being addressed in the plan.

20 In some situations there will be concerns
21 raised that are quite able to be addressed in the
22 simple fact that the operations are not in the area
23 that they are directly affected -- or, sorry, in an
24 area that is not directly affecting them or it may be
25 that there is an operation that is proceeding in an

1 area adjacent to one of their concerns. And, in that
2 regard, we would be obligated to -- I feel we are
3 obligated to respond to those individuals and advise
4 them of the full details of that situation.

5 MS. BAIR-MUIRHEAD: Q. I would like to
6 turn now to the terms and conditions relating to public
7 consultation, that is from 2 to 7, and I would like to
8 ask Mr. Bisschop.

9 And there may have been reference to this
10 I believe some time already this morning. Are there
11 any members, or are you aware of any members of Treaty
12 3 sitting on any planning team at the present time?

13 MR. BISSCHOP: A. I am not aware that
14 there are.

15 Q. All right. I am going to suggest to
16 you that there are not any members of Treaty 3 sitting
17 on a planning team. Would that be a fair statement?

18 A. That is quite likely, yes.

19 Q. All right. Are you aware of any
20 members of Treaty 3 sitting as advisors to a planning
21 team?

22 A. No, and again it's quite likely that
23 they are not.

24 Q. I am going to suggest to you, or are
25 you aware of any members of Treaty 3 employed by the

1 Ministry of Natural Resources, or anyone on the panel
2 can help me with that?

3 MR. KENNEDY: A. I believe we have
4 addressed questions of that nature in previous panels
5 in regards to individuals of ethnic origin and the
6 confidentiality of that information in regards to the
7 Ministry of Natural Resources doesn't even ask for such
8 information.

9 Q. All right. I am asking the members
10 of this panel in terms of their own personal
11 experience, are they aware of any members of Treaty 3
12 employed by the Ministry of Natural Resources? I am
13 going to suggest that they are probably not aware of
14 any.

15 A. And I would suggest that because of
16 the lack of information before us, which I understand
17 is a result of a legislative requirement, that we are
18 unable to provide an answer.

19 Q. All right.

20 MR. FLEET: A. I am hesitating in
21 answering your question simply because of my ignorance
22 of the boundaries of Treaty 3, but I could add that
23 across the Ministry of Natural Resources, of course
24 there are native employees. I don't know what treaties
25 they are from.

1 Q. Nothing really turns on the answer to
2 that specific question because I am going to put this
3 as a hypothetical to you, Mr. Bisschop.

4 I would like you to assume a scenario
5 whereby no members of a native group are represented
6 within the Ministry of Natural Resources, are sitting
7 as planning members or advisors to a planning team,
8 where there is a long-standing cultural conflict and
9 hostility between native communities and the Ministry
10 of Natural Resources.

11 I am going to ask you to assume a
12 situation where racism is perceived to be a negative
13 factor in contacts between the Ministry of Natural
14 Resources and the native community, and I am going to
15 ask you: How does your process of public consultation
16 and review deal with that assumed scenario?

17 MR. BISSCHOP: A. Obviously it's a
18 difficult question for me to respond to personally. In
19 the context of activities put forward in a timber
20 management plan that potentially would have some effect
21 on native communities, MNR of course obliged to consult
22 with the potentially affected community, and I would
23 expect that the district manager in particular would
24 take the lead in ensuring that contact was made with
25 the community and that the proposed activities are

1 discussed.

2 Appropriate planning team members would
3 be required to explain the activities and to address
4 the concerns of the native community and attempt to
5 incorporate those concerns in decision-making in the
6 plan.

7 Q. All right.

8 THE CHAIRMAN: Ms. Bair-Muirhead, if I
9 might ask you a question - which I don't know whether
10 you would be able to provide the answer - but, if in
11 fact there were a requirement in terms of a plan which
12 involved native communities which had potential impact
13 on native communities and the proposal was that a
14 native representative would be a member of the planning
15 team, what would you suspect the position to be if it
16 were a plan that involved several native groups such as
17 Treaty 3, Treaty No. 9, NAN, et cetera; would there be
18 any kind of agreement between the native groups as to a
19 nominee for a planning committee representing the
20 native interest when, in fact, there were several
21 native bands or groups involved?

22 Is there enough trust, if I might put it
23 that way, between the native groups themselves to be in
24 a position to appoint one representative to a planning
25 team, or would the Ministry be faced with the request

1 automatically that if you are going to allow a member
2 of Treaty 3 to be on the planning team, you also have
3 to allow a member of NAN and all the other groups?

4 MS. BAIR-MUIRHEAD: Well, just very
5 briefly, Mr. Chairman, I think it would be a mistake to
6 treat all native people as a homogenous group with an
7 identify of interest.

8 So I wouldn't like to go much further
9 than that in my response to your question, but just to
10 note that my intention in positing that particular
11 scenario to Mr. Bisschop is really to make this point:
12 Not in particular that a native person ought to sit as
13 a member of the planning team, but just to suggest that
14 where the process is so very dependent on public
15 participation whereby the onus for consultation of the
16 public is in fact placed on those members of the public
17 and there is no formal mechanism for contact or
18 negotiation beyond providing opportunities for the
19 public to come forward in review or comment, in the
20 scenario that I have suggested to you, you are not
21 going to get it, you are not going to get that kind of
22 consultation.

23 THE CHAIRMAN: Okay. But what is the
24 alternative? What we are looking for is a practical
25 solution, if it's not -- if the solution is not placing

1 a representative of the native community on the
2 planning team, and that may not be possible because
3 there couldn't be agreement amongst the native groups
4 themselves as to who that representative should be--

5 MRS. KOVEN: But, Mr. Chairman...

6 THE CHAIRMAN: --how do you do it?

7 MRS. KOVEN: Mr. Chairman, on that point,
8 why would there be any less agreement among the native
9 community on a single representative than in a group of
10 saw mill operators or lumbermen who share similar but
11 quite different interests?

12 THE CHAIRMAN: Not suggesting there would
13 for a minute. That is a difficulty with --

14 MRS. KOVEN: So I don't think that's what
15 the issue is, one representative; it's any
16 representation at all.

17 MS. BAIR-MUIRHEAD: Yes. Mr. Chairman,
18 at this stage I would say that my client proposes a
19 quite different way of dealing with the whole planning
20 process for timber and forest management and I prefer
21 not to -- I am not qualified frankly to give you the
22 details of that and you will have to await our evidence
23 in that respect.

24 I am merely highlighting the important
25 deficiencies that I see with the present mechanisms.

1 THE CHAIRMAN: Very well.

2 MS. BAIR-MUIRHEAD: And if I might follow
3 on a little more in that line of questioning, and
4 perhaps I should ask Mr. Multamaki this question.

5 MR. FREIDIN: I'm just wondering, I mean,
6 is this the subject matter that would be addressed by
7 Treaty No. 3 in their draft terms and conditions, their
8 proposal as to how the Board should deal with this
9 particular concern? I am assuming it would be, and I
10 would just like some confirmation of that.

11 MS. BAIR-MUIRHEAD: Yes, I would expect
12 you would see some reference to our proposed plans
13 there.

14 MR. FREIDIN: Thank you.

15 MR. COSMAN: Mr. Chairman, just perhaps
16 before my friend continues. I feel an immense amount
17 of frustration, and perhaps other parties do as well.

18 There is a very important discussion
19 going on with the Board among themselves and with the
20 Board to the witnesses that, of course, we hope we have
21 something to contribute to; and all I ask is that
22 before any one make up their mind on any of these
23 issues that we be given the opportunity - and I am sure
24 that that is intended - but the problem is, as the
25 discussion is proceeding and as the ideas are jelling,

1 it's not my role at this time to participate in that
2 discussion and to respond to Mr. Martel with what I
3 think will be very helpful points.

4 But I just want to ensure that those who
5 are listening, including my clients, know that this is
6 the case.

7 THE CHAIRMAN: Mr. Cosman, you may be
8 assured that no decisions whatsoever are reached by the
9 Board in terms of the evidence until we have heard all
10 parties and until all parties have had an opportunity
11 to put forward their points of view.

12 The benefit I think to the Board, and
13 maybe to the parties, of the Board entering into these
14 discussions is to try and focus, if we might do so,
15 some of the concerns that are being raised into some
16 practical considerations that might be put forward for
17 the Board's consideration by the various parties
18 further down the line when they have an opportunity to
19 present their evidence.

20 If in terms, for example, of this
21 cross-examination certain deficiencies are being
22 identified in terms of the interests of, in this case,
23 Treaty No. 3, the Board would like to have, and feels
24 it's beneficial, some idea if possible sometimes as to
25 what the alternatives are.

1 If this is a deficiency in terms of, for
2 instance, particular stakeholders not being members of
3 planning teams for the reasons articulated by the
4 Ministry witnesses, then what is an alternative?

5 And we realize that your evidence, when
6 you bring it forward in your own case, will probably
7 certainly set out what your clients' point of view is;
8 but it's helpful I think to the Board to take a look at
9 the deficiencies and then weigh them as we go along in
10 the light of what might be practically viewed as an
11 alternative, as opposed to just arriving at a position
12 that this doesn't look like it's going to work, or
13 representations are being made that this present
14 proposal is not working, and yet nothing is put forward
15 as to how we might overcome that.

16 It's frustrating for the Board as you go
17 along to hear the evidence come in that something may
18 or may not work well and then, at the same time, we
19 know at the end of the day we are going to have to,
20 based on the evidence and based on the submissions of
21 all parties, come to a decision as to what is
22 appropriate.

23 And we find it helpful to focus in on
24 what the alternatives are and that, I think, is the
25 advantage; and I think we will reach that stage very

1 shortly, certainly by January 30th, of essentially
2 knowing what the positions are of all the other
3 parties.

4 MS. BAIR-MUIRHEAD: Yes. And, Mr.
5 Chairman, I understand your concerns. On the other
6 hand, it's not just a simple matter of proposing that
7 one of our client members sit on a planning team, what
8 we are suggesting or will be suggesting is something
9 much more fundamentally different than that. And this
10 is not the appropriate --

11 THE CHAIRMAN: That is the purpose of
12 this hearing, to weigh the Ministry's proposal in the
13 light of other proposals.

14 MS. BAIR-MUIRHEAD: Yes, thank you.

15 MR. MARTEL: If I might just say, Mr.
16 Cosman, I raised the matter simply on the fact that if
17 one listens, one has heard the same scenario from every
18 party so far with respect to a planning team, I don't
19 think there has been a group that has been satisfied
20 with term and condition No. 1. While we are getting
21 the same complaint from one side, we are getting the
22 same answer from the other side; how do we work it out.

23 MR. COSMAN: I will certainly address
24 you, Mr. Martel, in due course, but not at this point
25 in time. I would love to do it right now, but I don't

1 think the Chairman would let me.

2 THE CHAIRMAN: Very well. Sorry to
3 interrupt your examination.

4 MS. BAIR-MUIRHEAD: That is fine.

5 Q. All right. Mr. Multamaki, can you
6 advise me, please, who in the district office would be
7 responsible for laying charges against Indians under
8 the Fish and Game Act, the Migratory Bird Act or the
9 Fisheries Act? Do you know?

10 MR. MULTAMAKI: A. I would imagine that
11 that would be the responsibility of the conservation
12 officers, but Mr. McNicol may want to correct me if I'm
13 wrong.

14 Q. All right.

15 MR. McNICOL: A. Mr. Multamaki is
16 correct.

17 Q. All right. And the policy direction
18 as to when charges are laid, where does that come from?

19 MR. MULTAMAKI: A. You have got me way
20 out of my league here.

21 Q. All right.

22 A. I am really not responsible for fish
23 and wildlife, but Mr. McNicol I think can address that.

24 MR. McNICOL: A. The direction would
25 come from the outdoor recreation group and specifically

1 the Director of Wildlife and also from the Minister on
2 occasion with regard to policies relating to charges
3 and native people.

4 Q. And that, at the local level then,
5 would be by way of direction of the district manager?

6 A. Correct.

7 Q. All right. Mr. Multamaki, are
8 conservation officers and the district manager, are
9 those people present at the various information centres
10 that are held?

11 MR. MULTAMAKI: A. Yes, quite -- they
12 are, quite regularly they are there. In fact, at the
13 information centre that we held for the Red Lake Crown,
14 the district manager as I remember it was there, and
15 conservation officers had come in and out routinely
16 throughout the day. I should also point out that Mr.
17 Bush who is listed as a plan advisor is also a
18 conservation officer and was at the information centre.

19 Q. All right. I guess my question, Mr.
20 Multamaki, is that I am going to ask you to imagine a
21 situation whereby there may be a certain amount of
22 hostility between native bands and the Ministry
23 personnel present at an information centre, for
24 example, where native people are expected to sort of go
25 in and chat about areas of concern and values.

1 And can you not imagine that there might
2 be little inclination in those circumstances to
3 participate in that kind of a process? Do you have any
4 comment to make?

5 A. I guess my comment on that is that
6 there may be differences of opinion between a number of
7 stakeholders and between themselves at an information
8 centre and, with respect to my experience in
9 information centres, certainly a number of native
10 people have attended various information centres that
11 have been at and I honestly didn't notice that.

12 MR. McNICOL: A. Ms. Bair-Muirhead, if I
13 might add to that.

14 Q. Yes.

15 A. I would suggest that that would be
16 less likely with native people than it would be with
17 non-native people because, as a Ministry, we do have a
18 policy with regard to native people vis-a-vis treaty
19 rights of leniency for charges under the Game and Fish
20 Act.

21 So if there are going to be hard
22 feelings, I would suggest that hard feelings are more
23 prevalent in the white community or non-native
24 community than with the native community.

25 Q. All right, thank you. If I could

1 turn briefly to term and condition No. 3. And, Mr.
2 Bisschop, it's not a numbered paragraph, but the last
3 paragraph of condition 3. The proposal indicates that
4 notices to Band Councils and native groups would be
5 in the appropriate native language on request.

6 And this may have been asked you before,
7 but I am going to ask you: Why on request, why
8 wouldn't you do that automatically to ensure proper
9 communication with the party?

10 MR. FREIDIN: We went through that
11 yesterday. I thought that you were here for the
12 cross-examination of Mr. Hunter, he went through that.

13 MS. BAIR-MUIRHEAD: Well --

14 MR. BISSCHOP: I could very briefly
15 explain.

16 MR. FREIDIN: I am just wondering
17 whether --

18 THE CHAIRMAN: Well, just a moment.

19 I think it's something, Ms.
20 Bair-Muirhead, that was covered rather extensively
21 yesterday. I think Mr. Freidin is correct that you
22 were here yesterday; were you not, for Mr. Hunter's
23 examination?

24 MS. BAIR-MUIRHEAD: Yes, and I just
25 wanted to make the very simple point, Mr. Chairman,

1 that it's perhaps more beneficial to put the onus -- to
2 not put the onus on the people who you are intending to
3 get information from; in other words, you ought to make
4 the communication paths clear. And that is simply my
5 observation with respect to that term and condition.

6 THE CHAIRMAN: Well, I think unless you
7 have, you know, a specific question you want to put to
8 the panel, they dealt yesterday with that very issue.

9 MS. BAIR-MUIRHEAD: I have nothing
10 further to say on that subject.

11 THE CHAIRMAN: Okay.

12 MS. BAIR-MUIRHEAD: Q. There is,
13 however, in the paragraph above - and I don't think
14 that this issue was dealt with, but correct me if I'm
15 wrong - reading:

16 "Direct verbal communication of the
17 required, information with whatever
18 modifications are necessary, may serve as
19 an addition form of notification where
20 appropriate."

21 And I would just like to ask, Mr.
22 Bisschop, is it normally -- is that provision normally
23 intended to apply to Band Councils and native groups,
24 or is there a certain interest group that you have in
25 mind with respect to that provision?

1 MR. BISSCHOP: A. The provision, as I
2 recall when we originally produced it for the Class EA,
3 was very much intended to be directed in particular to
4 native communities because of an understanding that
5 written forms of communication are not always the
6 preferred form of communication with native
7 communities.

8 Q. All right, thank you. I was just
9 seeking the genesis of that particular provision.

10 Mr. Bisschop, I have another question for
11 you. There was a general proposition made by Mr.
12 Hunter yesterday concerning, if I could characterize it
13 this way, adding another layer of notice and
14 consultation in forest management units where there was
15 an Indian reserve or community.

16 Do you recall that proposition by Mr.
17 Hunter, and I don't want the details of it.

18 A. Again, as I understood, it was not a
19 another layer of notice, but within the four
20 opportunities some further formalized opportunities
21 related to meetings dealing with native communities.

22 Q. All right then, I accept that.
23 Without making any comment then about the
24 appropriateness of that proposal in specific terms, I
25 would like to ask you a question concerning your

1 response to that proposal, and I think that was that
2 you would object to that procedure as a universal
3 requirement because I think you indicated that there
4 may be circumstances where, after the initial
5 information is provided, that perhaps there would be no
6 further interest and--

7 A. That's right.

8 Q. --that would preclude the need for
9 further meetings; is that your response?

10 A. I think that is the substance of what
11 I was trying to say there, yes.

12 Q. All right. Then, Mr. Bisschop, as a
13 general proposition, wouldn't you agree that it's the
14 potentially affected communities which should make the
15 decision about whether or not they have any further or
16 particular interest in a timber management plan?

17 And by that what I mean is, again, why
18 put the onus on them to advise you of where they may
19 have an ongoing or particular interest, why not require
20 the Ministry to hold the meetings with provision for
21 the group to advise you if they are no longer
22 interested in participating?

23 A. I thought yesterday that I had
24 addressed that.

25 Q. Yes.

1 A. Through I believe what I agreed to in
2 Mr. Hunter's proposition to me, that I thought it was
3 reasonable for MNR to provide with public notice number
4 No. 2 some additional materials related to the proposed
5 activities covered by the plan.

6 Q. Yes.

7 A. And then leave it to the native
8 community to make the decision on further involvement
9 primarily related to the consideration of whether or
10 not the native community is directly affected.

11 And I think I used the example that there
12 may be situations where there are no operations
13 anywhere near the community or the vicinity of the
14 community and the native community then could decide
15 that no further consultation would be required and they
16 would -- if further consultation was required, we would
17 leave it to them to request that of us.

18 Q. All right.

19 A. I thought I had addressed exactly the
20 concern you are raising.

21 Q. Well, I think that my concern with
22 your answer is that, again, what you are saying is that
23 if they wish to have any further consultation the onus
24 would be on them to consult -- to request it.

25 And I'm suggesting to you: Why not have

1 a formal requirement for further consultation by way of
2 meeting prior to preparing the draft, for example as
3 Mr. Hunter suggested, and then have the group tell you
4 that they don't wish to proceed with the formal
5 requirements as set out?

6 It's a slightly different -- if the onus
7 rests on a different party, is what I am suggesting,
8 and I am suggesting the onus should be on the Ministry
9 to provide for the formal requirements and have the
10 interest group say to you: Thank you very much, we
11 don't need this further consultation.

12 A. If you are suggesting then that I
13 commit to a formal requirement that we would have a
14 separate information centre in relation to public
15 notice No. 2 in each and every case, produce the
16 information necessary for that information centre, go
17 to the reserve, have no one show up and leave, I don't
18 see the point in it.

19 I see a willingness on our part to
20 address the needs of an interest in an affected native
21 community where there is a willingness on their part
22 to -- well, where there is an expressed interest on
23 their part and a willingness on their part to continue
24 active involvement.

25 I think what I was trying to get across

1 yesterday, I didn't see the necessity for the two
2 information centre proposals that Mr. Hunter put to me
3 if there is not an interest.

4 Q. Yes, and I am not disagreeing with
5 you on that point. My only point being who should
6 make -- at what point should the decision be made as to
7 whether there is interest or not, and whether there
8 should be a formal requirement in the procedure?
9 Anyway, I am prepared to leave that particular issue.

10 Now, Mr. Kennedy, if we could deal
11 with -- I believe it's term and condition No. 6, that
12 is the values map. And I don't think we need to turn
13 to these pages, but in Exhibit 813A, pages 213 to 216,
14 certain features are set out there that may be
15 portrayed on such a map.

16 And I think term and condition No. 6
17 indicates that those would be values identified by the
18 Ministry of Natural Resources or any other person. Am
19 I correct in that?

20 MR. KENNEDY: A. Yes, you are.

21 Q. My question is: Is that information
22 from any other persons collected in any way other than
23 through the formal or informal public consultation
24 process, and I believe that you mentioned that there
25 are negotiations from time to time with -- or rather,

1 consultations from time to time, but do you ever
2 systematically solicit that type of information such
3 as, for example, approaching native communities to ask
4 them to map out their trap lines or spawning grounds or
5 wild rice areas?

6 A. I would say it's not a requirement to
7 do that at the moment. I would indicate that in Panel
8 7 where we have talked about the kind of information,
9 data collection methods that Ministry of Natural
10 Resources use, that certainly information of that
11 nature would be collected from all sources throughout
12 the course of doing business on a regular ongoing
13 basis.

14 Q. All right. But there is no
15 systematic attempt to actually visit the communities
16 and say: We are preparing a values map, can you
17 identify values for us?

18 A. I believe the last time that we
19 undertook such a systematic event would have been with
20 the District Land Use Guideline preparation, the
21 background information documentation where we made
22 efforts to become -- made special efforts to become
23 aware of the kind of land uses and users that were
24 taking place and at that time, back in 1980-82, the
25 effort was made to collect traditional use areas.

1 Q. All right. Any systematic efforts
2 since that time that you are aware of?

3 A. I would suggest the systematic -- if
4 it's to use the word 'systematic', would be this effort
5 of updating that information that is available now from
6 our files which includes that District Land Use
7 Guideline background information.

8 So, as such, the use of the values map at
9 the scheduled renewal of every timber management plan
10 in the province, all approximately 100 of them, would
11 be the closest to a systematic approach that we have.

12 Q. Okay, thank you.

13 MR. FLEET: A. Ms. Bair-Muirhead, in the
14 preparation of the Lac Seul Plan as an example - and it
15 is not universal, but it is an example - the Slate
16 Falls -- the New Slate Falls Band was provided with
17 maps of proposed operations and they requested the maps
18 and suggested that they could provide to us areas of
19 traditional use and so forth and so on. And there was
20 a very back and forth process and a real effort to, in
21 fact in that particular instance, understand specific
22 areas of concern for that particular band.

23 Q. And did you find that material useful
24 as additions to your database?

25 A. What I indicated was there was an

1 attempt to do that. The MNR provided information,
2 unfortunately we were never provided by the band with
3 the information that we sought and, of course, the
4 schedule moved forward and we couldn't wait.

5 Q. All right.

6 MR. KENNEDY: A. If I could add to Mr.
7 Fleet's comment, that certainly that is one of the
8 intentions behind the invitation to participate, is to
9 have people come out and add to our database. And, of
10 course, the invitation to participate is sent to all
11 members of the planning -- that are identified on the
12 mailing list associated with the plan and that includes
13 native bands and councils, as well as those people that
14 we are aware or have expressed an interest in the
15 management unit.

16 Q. Thank you.

17 MR. MULTAMAKI: A. I would also like to
18 point out that the bands and native communities also
19 have access to a range of information from other
20 sources aside from the MNR.

21 There is information passed on through
22 Native Affairs and so on. There is also a great deal
23 of interaction between the native communities and the
24 companies that are involved in timber management
25 activities and it's quite common for the bands and the

1 communities to be involved with other stakeholders in
2 the forest, both timber companies, tourism, NOTOA and
3 so on, and they do have access to this information from
4 a range of sources aside from the MNR.

5 And, in keeping with that, it is also
6 quite common for Natural Resources and these other
7 stakeholders to be in constant dialogue with the native
8 communities, for example, the chiefs of the various
9 bands and so on, to get their input into various
10 operations or proposals that might take place.

11 So it's not a one-way street, it's not
12 quite as simple as it looks.

13 Q. All right. Thank you, Mr. Multamaki.
14 I'm not so concerned with the information that native
15 groups may have available to them but, in fact, what
16 information you may have available to you directly from
17 native groups, and it is for that reason that I am
18 asking about the systematic collection of values data
19 from native communities.

20 A. Yes. And I would also say that being
21 that it's a two-way street, the native communities and
22 natives do provide a great deal of information to the
23 other stakeholders and it gets passed on to the
24 Ministry and included in things like the values map;
25 for example, it is quite common for natives to talk to

1 the timber companies and the timber companies to bring
2 that information as well to the planning team.

3 Q. Thank you. Now, Mr. Bisschop, I have
4 a question -- another question concerning values and I
5 may have missed the answer to this question yesterday,
6 so just advise me if that's the case.

7 My question is whether there is some
8 evaluation made of a value before it is added to the
9 map? In other words, if a person approaches you and
10 says: Well, we have some concern for this particular
11 area because it provides habitat for marten, would that
12 value automatically go in the values map or would it be
13 weighed at the outset?

14 MR. BISSCHOP: A. In general, the values
15 are automatically added. I think Mr. Fleet made a
16 comment of an example yesterday in which if we know,
17 for example a lake has already been considered for a
18 cottaging development, we wouldn't accept the
19 identification of that lake as a value for remote
20 tourism on suggestion from someone. The way that we
21 really do approach the question of how much
22 consideration to give to that value is actually when we
23 plan operations.

24 Q. Yes.

25 A. So we don't do it at the time of

1 adding the value, but rather at the time of determining
2 how are we going to protect the value.

3 Q. All right. So that's more or less an
4 automatic process then, someone identifies it, it goes
5 on the values map?

6 A. If it's geographically identifiable
7 on a map, normally that's what would happen.

8 Q. All right. And just in reference to
9 the example that you have indicated was raised by Mr.
10 Fleet yesterday where there is perhaps a conflict
11 between values, and the example was the cottage -- a
12 lake, designating a particular lake as a cottage value
13 as opposed to a tourism value.

14 Surely there is some value judgments made
15 in deciding between those two values?

16 A. Well, I would argue that that's
17 already happened. In the case that he referred to, it
18 has already happened through district land use planning
19 that the cottaging proposal or whatever was determined
20 to be the proposal that had the most value, if you
21 will.

22 Q. All right. And what about in
23 situations where the District Land Use Guidelines may
24 not apply? I mean, where there is a conflict between
25 values, how is it decided what goes on the values map

1 or do you put both of them on?

2 A. Again, we are speaking
3 hypothetically. I would generally say that we would
4 identify both values.

5 Q. Thank you.

6 A. In the sense that there is potential.

7 THE CHAIRMAN: Could we find a convenient
8 spot for a morning break?

9 MS. BAIR-MUIRHEAD: This is as convenient
10 as any other time, Mr. Chairman.

11 THE CHAIRMAN: Okay. Can you give us an
12 idea how your examination is progressing in terms of
13 time?

14 MS. BAIR-MUIRHEAD: I am not going to be
15 much longer. I would say I am two-thirds of the way
16 through.

17 THE CHAIRMAN: Very well. Thank you.

18 We will break for 20 minutes.

19 ---Recess taken at 9:45 a.m.

20 ---On resuming at 10:15 a.m.

21 THE CHAIRMAN: Thank you. Be seated,
22 please.

23 Ladies and gentlemen, just a brief
24 announcement. The Board has completed its draft ruling
25 with respect to some more procedural directives arising

1 out of the discussions held earlier this week and last
2 week and they are available on the court reporter's
3 table for counsel to pick up at your convenience.

4 It is not the Board's intention to read
5 these into the record. They are rather lengthy, they
6 cover some six pages, but we would like the court
7 reporter to refer to these verbatim in the transcript
8 so that people who are not in attendance at the hearing
9 will have the benefit of being able to ascertain what
10 these directives say precisely.

11 And we do not intend to enter into any
12 further discussion on them until likely October 31st,
13 which is the same date that we have set for the
14 discussion of the issue concerning relocation of the
15 hearings, and subsequent to that discussion on that
16 day - and we will only deal with these briefly on that
17 day - we will finalize these directives and issue them
18 and they will then govern the proceedings thereafter
19 until any subsequent directives are issued; and at the
20 same time, within these directives, we will deal with
21 our decision regarding any relocation of the hearing,
22 so that that issue will be dealt with as part of the
23 finalized directives as well.

24 MR. FREIDIN: I'm sorry, you are
25 anticipating submissions on October the 31st on the

1 finalization...?

2 THE CHAIRMAN: After that. We will have
3 submissions on these draft directives on October 31st.
4 We will deal specifically with the issue regarding the
5 relocation or the possible relocation of the hearings
6 and, after that one session on October 31st, which we
7 will be holding towards the end of the day, we will
8 then finalize the directives, issue them and proceed
9 with the hearing from there on.

10 Thank you.

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EA 87-02

DRAFT

ENVIRONMENTAL ASSESSMENT BOARD

Proposed Class Environmental Assessment by the
Ministry of Natural Resources for Timber Management
on Crown Lands in Ontario

IN THE MATTER OF sections 5(1), 12(2) and 13(3) of the
Environmental Assessment Act, R.S.O. 1980, c. 140;

- and -

IN THE MATTER OF the Class Environmental Assessment of
the undertaking of Timber Management on Crown Lands in
Ontario as administered by the Ministry of Natural
Resources.

PROCEDURAL DIRECTIVES

On October 3rd the Board served notice upon the parties
to this hearing that it was dissatisfied with the
progress made to date in terms of expediting the
hearing of evidence and the continued lack of focus
upon issues in dispute.

This concern was further exacerbated when the Board,
after requesting and receiving submissions from counsel
representing parties participating on a full-time basis
as to their estimates of the time required for each of
the parties in support of or in opposition to this
application to put their respective cases before the
Board, learned that, on the basis of those estimates,
this hearing could last until mid 1992, provided that
the Ministry of the Environment elects not to present
its own evidence, with additional time required to
enable the Board to write and issue its decision.

The Board has categorically stated that it finds this
projected timetable totally unacceptable and contrary

to the public interest, and directed counsel to provide the Board with specific and detailed proposals designed to expedite these proceedings for its consideration, which would then form the basis for further procedural directives to be issued by the Board. A full discussion of these proposals took place at a session devoted entirely to procedural matters held at the Board's offices in Toronto on October 17th, 1989 and the directives contained herein are in response thereto. They are being issued in draft form in order to allow the parties to make further submissions prior to their finalization within the next two weeks.

I) Presentation of Direct Evidence

A proposal was put forward to the effect that a voluntary limit of one and one half to two days per panel for the presentation of direct evidence be agreed to by the parties, with leave of the Board being required if additional time is requested.

The Board is of the view that two days should be more than sufficient time for any party to highlight or elaborate upon evidence which is essentially contained within written witness statements submitted well in advance of the panel being examined. Accordingly, the Board shall, commencing with the Ministry of Natural Resources Panel XVI evidence, limit the presentation of direct evidence to a maximum of two hearing days.

Leave of the Board shall be required in the event that the two day time limit is to be exceeded, and leave shall not be granted unless the party seeking leave can show just cause.

As the parties are aware the Board has considered, but declined in the past, to impose a time limit on the presentation of direct evidence; however, has decided to do so at this juncture and is not persuaded that any unfairness to any of the parties will result. Although MNR has exceeded the two day limit up to this point in the hearing, the time taken up in cross-examination has by far occupied the majority of the time required to complete the examination of each panel, and thus all parties have had ample opportunity to clarify and test the evidence put forward by the Ministry.

II) Draft Terms and Conditions -
Implementation of a Formal Negotiating Process

In its continuing efforts to focus the resources and efforts of the parties to resolving the issues in dispute, the Board in its procedural directives dated September 16th, 1988 specified that the Ministry of Natural Resources, as well as other parties participating on a full-time basis, provide draft terms and conditions of approval which the Board might impose in the event that approval of the Ministry's application is granted.

The submission of draft terms and conditions of approval is not something new in terms of Board procedure; however, it is more usual for the same to be provided at the end of the case either prior to or during argument. In this instance the Board felt it would materially assist both it and the parties to have the positions of MNR and all other full-time parties specifically delineated at a much earlier stage in the hearing process.

In accordance with the Board's earlier procedural directives, MNR's draft terms and conditions were filed on June 27th, 1989 as Exhibit 700.

Under the terms of these earlier directives all other parties are required to deliver draft terms and conditions by the conclusion of MNR's case, which is now estimated to conclude on or about February 15th, 1990.

It was a further condition of the Board's earlier directive dated September 16th, 1988 that all proposed terms and conditions may be submitted on a "without prejudice" basis and may be subject to later revision, should the same be necessary.

The Board has concluded that all parties are now in a position of knowing the essential aspects of the Ministry's case and are aware of the principal areas of dispute. In the Board's view, all parties should be able to set out with some particularity draft terms and conditions which reasonably reflect a particular party's position vis-a-vis MNR's application before the Board.

The Board during the discussions which took place on October 17th, 1989 proposed that subsequent to the tabling of the draft terms and conditions by all parties, a period of two weeks be set aside for the purpose of allowing the parties an opportunity to conduct intensive negotiations directed towards reaching agreement on the issues raised concerning the undertaking before the Board. It is during this period of negotiation that all of the full-time parties will be expected to examine each of the specific terms and conditions put forward by each party and to negotiate in good faith with the express goal of reaching a commonality of position or agreement on as many issues as possible, while at the same time identifying all outstanding issues in dispute.

In order to assist the parties the Board hereby directs that the negotiations referred to herein be conducted in accordance with the following provisions:

- (a) All parties participating on a full-time basis shall file and distribute to all other parties receiving full-time correspondence draft terms and conditions on or before January 30th, 1990.
- (b) The terms and conditions referred to in subparagraph (a) shall to the best of that party's ability represent the party's position with respect to the issues involved. The Board recognizes that some positions may change as a direct result of the negotiating process, and accordingly encourages all parties to be reasonable and flexible in their approach.
- (c) The Board shall adjourn the hearings for the purpose of hearing evidence for a two week period commencing February 19th, 1990. Counsel or representatives for all parties participating on a full-time basis shall be required to attend and participate in intensive negotiations at a location to be decided upon by the parties.

The report to the Board referred to in subparagraph (d) shall set out the names of

all participants and shall include reference to the dates and duration of all negotiating sessions held.

- (d) On or before April 3rd, 1990 a written report shall be filed with the Board detailing the results of the negotiating process which shall set out, inter alia, the following:

- i) Those issues upon which the parties have reached agreement and, where applicable, the precise suggested terms and conditions relative to those issues.

In the event that not all parties have reached agreement on a specific issue then reference will be made to those parties who do not agree, and their respective positions with respect to the particular issue in question shall be set out in detail.

Where parties signify in the report to the Board that a particular issue is not in dispute, then that party shall not address that issue during its presentation of oral direct evidence unless otherwise directed by the Board. This shall not preclude the party from addressing the issue in the witness statement if it so desires; however, the Board shall not permit cross-examination by other parties who have signified that a particular issue is not in dispute.

- ii) Those issues where the parties have been unable to reach agreement and may therefore be characterized as issues in dispute.

These issues will be dealt with in the normal fashion with the parties calling direct evidence subject to the time limitation set out above, and parties opposed in interest having the right to cross-examine.

- iii) All parties who have filed draft terms and conditions on or before January 30th,

including MNR, shall be required to finalize their terms and conditions and file revised terms and conditions on or before April 3rd, 1990, if changes to their earlier stated positions have resulted by reason of the negotiating process.

Thereafter parties will only be permitted to further amend terms and conditions with leave of the Board.

- iv) For the purposes of these procedural directives, the phrase "terms and conditions" shall encompass amendments sought by a party with respect to the principal documents put forward by the Ministry of Natural Resources in support of its class environmental assessment, including but without limiting the generality of the foregoing, the Class EA document (Exhibit 4), the Timber Management Planning Manual, Operation Manuals, silvicultural guides, etc.

III) Scoping of Issues

The Board adopts the proposals put forward by the parties designed to tighten up the scoping procedures previously established by the Board.

- a) Any party not filing a Statement of Issues within the time limits specified by the Board shall require leave of the Board before being permitted to cross-examine on that panel. Leave shall not be granted unless the party requesting leave has specifically identified relevant matters which it intends to raise in cross-examination.
- b) Failure to request leave to cross-examine a panel within one week after the date of the scoping session for which the party failed to submit its Statement of Issues shall be deemed to constitute a waiver of the opportunity to cross-examine that panel.
- c) Parties who wish to cross-examine upon issues identified in their Statement of Issues shall

wherever possible focus their cross-examination by specifically relating the same to positions put forward in the draft terms and conditions filed by MNR and/or the party cross-examining.

- d) The Board may at the scoping session designate lead counsel to cross-examine in situations where more than one party wishes to cross-examine with respect to the same issues, in order to prevent undue repetition, and intends to exercise its powers under s. 18(15) of the Environmental Assessment Act and s. 23(ii) of the Statutory Powers Procedure Act.

IV) Submission of an Additional Timber Management Plan by MNR

During the course of receiving evidence with respect to the Red Lake Timber Management Plan the Board, together with some of the parties, expressed a concern with the level of documentation primarily in relation to area of concern planning.

The Board at that time suggested that the Ministry might file an additional plan to illustrate better the level of documentation which might be more representative than the Red Lake Plan of that found under the planning process before the Board for approval.

In putting forward this request the Board made it clear that it did not wish to review another plan in its entirety, but rather wanted to be in a position to compare the level of detail set out with respect to area of concern planning with respect to a plan that had been prepared more recently than the Red Lake Plan, which in accordance with the Board's understanding was prepared in 1986 at the time the Timber Management Planning Manual was first introduced, and before planning teams had received any training with respect to its use.

In order to expedite the completion of the Ministry's case the Board suggested that MNR file a further plan for the Board's consideration (if in MNR's view a plan existed which would better

illustrate the level of documentation), and the parties would deal with any issues arising from this additional evidence during the presentation of their own evidence, with MNR having the right of reply to deal with matters arising with respect to this additional plan.

Some of the parties expressed the view that if an additional plan were filed the entire plan should be addressed in direct evidence by MNR witnesses, with the parties retaining the right to cross-examine on all aspects of the planning process relative to that plan. The Board reiterates its position that it is primarily interested in comparing the level of documentation and decision-making with respect only to the area of concern planning process of a more recent planning exercise than that set out in the Red Lake Plan. The Board will therefore direct the Ministry of Natural Resources to file one further timber management plan which will, in its view, provide the Board with additional evidence concerning the level of documentation and decision-making with respect to the area of concern planning process.

In doing so, MNR shall make the entire plan available to the parties as well as the appropriate Ministry individuals who were involved in its preparation available to be cross-examined.

The Board is prepared to allow cross-examination with respect to the area of concern planning process only; however, will place a limit of three hearing days on the time available for all parties to collectively complete their cross-examinations. The Ministry shall not lead direct evidence but will be allowed one half day for re-examination.

Parties will be required to deal with any additional concerns in relation to such plan or any other plan in the context of presenting their own case.

In the event the Ministry elects to file an additional timber management plan it is directed to do so by November 30th, 1989. Any cross-examination and re-examination in respect thereof will take place immediately prior to the conclusion of the Ministry's case.

V) Relocation of Parts of the Hearing

Counsel for Forests for Tomorrow put forward a proposal for the Board to reconsider its earlier decisions concerning the location of the hearings following the completion of the Ministry's case.

It was suggested that by relocating the hearings to Toronto and increasing the hearing schedule to four days per week, a considerable savings in both time and hearing costs would be effected, although it was recognized that some reallocation of monies provided by way of intervenor funding to some of the funded parties might become necessary.

At the request of the counsel for OFIA/OLMA the Board agreed to defer submissions with respect to this matter until October 31st, 1989, and will advise parties of its decision at the same time those draft procedural directives are finalized.

In the event that these measures prove to be ineffectual in substantially shortening these proceedings, and in particular if the negotiation process referred to above fails to assist materially in this regard, then the Board is prepared to impose stringent time constraints upon all parties with respect to all future cross-examination.

The Board will take this step, if necessary, upon being satisfied that all of its efforts to date have essentially failed to improve the productivity and efficiency of the hearing process.

Dated at Thunder Bay this 25th day of October, 1989.

Michael I. Jeffery, Q.C.
Chairman

1 CONTINUED CROSS-EXAMINATION BY MS. BAIR-MUIRHEAD:

2 Q. Mr. Kennedy, if I could turn to term and
3 condition No. 9 which is objectives and strategies, and
4 with reference to that, if I could look to Exhibit 16,
5 that is Dean Baskerville's report at page 84.

6 MR. KENNEDY: A. Could you repeat the
7 page number, please?

8 Q. Page 84. Do you have that?

9 A. Yes, I do.

10 Q. The second full paragraph, and if I
11 can just read a portion of that, Dean Baskerville
12 states that:

13 "The absence of a technically sound
14 approach to integration of timber with
15 non-timber values is a more serious
16 problem that will require considerable
17 change in the system if the desired level
18 of integration is to be achieved. The
19 approach used to integration of timber
20 with non-timber values is based on local
21 judgment with no objectively measurable
22 standards."

23 And then he goes on, the last sentence of
24 that paragraph:

25 "Much of the planning material in this

1 area would be better described as
2 creative writing about the resource than
3 as a realistic attempt to control
4 resource development over time to achieve
5 objectively stated values."

6 Could you tell me, Mr. Kennedy, what
7 changes have been made or contemplated in the planning
8 process to deal with the observation made by Dean
9 Baskerville? Do you agree with it, first of all?

10 A. No, I can't say I agree with the
11 entire paragraph, no. Some of the changes that we have
12 made over time, some prior to -- or, excuse me, that
13 Mr. Baskerville -- Dr. Baskerville was looking at plans
14 that had been prepared under the old planning system.

15 Now, some of the changes that we have
16 made with the new planning system and some of the
17 changes -- excuse me, which resulted in Exhibit 7, the
18 Timber Management Planning Manual, and some of the
19 changes that we have made in the Class EA Document,
20 which is reflected in the June, '87 version, Exhibit 4,
21 addressed concerns that Dr. Baskerville has raised
22 here.

23 Specifically in regards to the
24 integration of other values, we have taken the approach
25 of the multi-disciplinary planning team, development of

1 values map and the area of concern process, to be
2 brief, are some of the significant ways in which we are
3 ensuring an integration of other values into timber
4 management.

5 And to be specific in regards to
6 objectives, and targets I believe is also mentioned in
7 the paragraph, that we have required the development of
8 objectives that are particular to timber management, in
9 this case, quantified objectives for both the harvest
10 and renewal portion of the timber management plan.

11 And those are the major ways in which we
12 have addressed the concerns raised by Dr. Baskerville.

13 Q. All right. Just to follow up on
14 that, if I could refer you to the Timber Management
15 Planning Manual at page 59, that's Exhibit 7 at page
16 59.

17 A. Yes.

18 Q. The heading: Management Objectives,
19 and I believe that you gave some evidence in your
20 direct examination that there are four objectives
21 discussed at the management unit level in the context
22 of the timber management plan; that is, harvest,
23 renewal, environmental quality and other uses/users,
24 that being a reflection of integrated resource
25 management. Is that a fair summary of what you stated?

1 A. Yes, that's correct. And those are
2 highlighted at the bottom of page 59.

3 Q. Right. In the past paragraph?

4 A. Yes.

5 Q. All right. Now, you indicated
6 further, and that's also referred to in the last
7 paragraph on page 59, that of those four objectives the
8 first two are expressed in quantitative terms, harvest
9 and renewal?

10 A. Correct.

11 Q. All right. That a target level is
12 recorded in the plan and the result is that the
13 accuracy of the target level can be measured; for
14 example, when you are considering the report of past
15 forest operations because there is a number?

16 A. Yes, I've made reference to the fact
17 that that target allows you to measure against --
18 measure progress against that target.

19 Q. Right. So you can measure success or
20 failure of a particular strategy or go some way towards
21 that measurement?

22 A. It allows you a benchmark, if I could
23 use that expression, to gauge progress, and success or
24 failure I think may not be the best way of
25 characterizing it, but it allows you to explain any

1 differences between what you actually are able to
2 achieve versus what you had planned to achieve over the
3 five-year term.

4 Q. All right. Would you agree with me
5 that when you use a number to express the renewal or
6 harvest objectives, that it is easy for a member of the
7 public to understand exactly what's intended; in other
8 words, a number has a fairly universal meaning, it is
9 intended to be objective?

10 A. Yes, I would say that's a fair
11 statement.

12 Q. And, on the other hand, when you are
13 discussing the environmental quality and uses and user
14 objectives, they are stated only in qualitative terms.

15 I'm not sure exactly what is meant by
16 that. Can you provide me with an example, because it
17 seems to me that's much more difficult to measure.

18 A. Yes, it is, and that's the -- in part
19 our difficulty in looking at how one would attempt to
20 attach a quantitative measure to environmental quality
21 objectives. We've given instructions on using
22 qualitative terms to attach both to the environmental
23 quality as well as the other use or integrated resource
24 management.

25 The kind of attention that we expect to

1 see given in this objective portions of the plan are in
2 recognition of the need to practice timber management
3 in an environmentally sound fashion by using accepted
4 practices that are documented in resource environmental
5 manuals, as an example.

6 Q. All right. And I guess my question
7 is: Is it always impossible to assign a quantitative
8 objective to an environmental quality; in other words
9 -- and I may be using a completely faulty example, but
10 could you not say that part of the objective of the
11 forest management agreement would be to ensure, for
12 example, a certain moose population, that having an
13 environmental quality, but the objective being able to
14 be supplied by way of a number?

15 A. I understand what your suggestion is
16 and I take you back to the fact that this is a timber
17 management plan and, as such, the resource that's being
18 managed through this plan is timber and we are
19 addressing the effects of that timber management on
20 other resource-based...

21 So in your suggestion of including a
22 number, a target that would deal with the production of
23 moose, that's not, in our view, an appropriate item to
24 be put into a timber management plan. It would be
25 dealt with through other resource management plans.

1 Q. All right. And, as I say, I may have
2 used a bad example, but my general question is: Is it
3 not possible to put a number on any of the objectives
4 for environmental qualities?

5 A. We have had considerable discussion
6 with this amongst those individuals that have prepared
7 plans in the last three years and are planning
8 specialists. We have a great deal of difficulty in
9 identifying a unit that you would use to measure
10 against.

11 There has been a number of suggestions
12 that have come forward; one of the more common ones is
13 to use the area of concern as a measure. And our
14 discussions have been that it seems -- first of all, we
15 do document those in a timber management plan and they
16 are -- therefore, they're listed and that information
17 is there, but to translate those into a quantified
18 portion of the environmental quality objective seemed
19 rather meaningless in that the number of AOCs that you
20 would encounter on a management unit would vary from
21 unit to unit, depending upon the values and features
22 that are present, as well as the areas that are
23 selected for operations for the five-year term. So it
24 became somewhat of a meaningless number to judge the
25 environmental quality against.

1 Instead, we have opted for giving
2 explicit instructions in this -- or, sorry, explicit
3 instructions through our planning process and then
4 recording it on the environmental objectives, the need
5 to address environmental concerns.

6 MR. McNICOL: A. Ms. Bair-Muirhead--

7 Q. Yes?

8 A. --maybe I can help you with your
9 question.

10 Q. Yes.

11 A. In terms of quantified objectives, we
12 in fish and wildlife management do have, as you are
13 aware, quantified objectives. The targets are set on a
14 wildlife management unit basis, not on a timber
15 management planning basis.

16 Q. Mm-hmm.

17 A. A typical wildlife management unit
18 would have many timber management plans and operational
19 areas over time within its boundaries; they are quite
20 large.

21 As Dr. Euler explained, we do monitor the
22 results of our management activities for wildlife
23 species on a wildlife management unit basis. In the
24 case of moose, the example that you brought forward, we
25 do monitor population levels within those wildlife

1 management units.

2 Looking at habitat, which is obviously
3 the most important aspect when we consider timber
4 management planning, it's important to recognize that
5 the guidelines that deal with moose habitat, their
6 application are mandatory in any timber management
7 planning exercise.

8 Recognizing that a number of timber
9 management plans will exist in a wildlife management
10 unit over time, cumulatively over time, and given that
11 application of the moose guidelines are mandatory in
12 every timber management plan, the habitat, we submit,
13 is being looked after.

14 Thus, our ability to achieve our
15 numerical target on that wildlife management unit, and
16 looking at habitat as an important component or factor
17 in achievement of that target, is guaranteed.

18 And as Mr. Euler indicated -- Dr. Euler
19 indicated: Judge us by our results. When we look at
20 what's happened over the last eight years with regard
21 to implementation of the selective harvest system which
22 is the other tool we use to manage our moose
23 population, and with the application of moose habitat
24 management guidelines, the population in the province
25 has increased by about 50 per cent.

1 Q. Right. In other words, then, you are
2 able to judge the qualitative aspect under the timber
3 management plan; in this example, the habitat for
4 moose, by way of reference to the targets under the
5 guidelines which is a quantitative...

6 A. Correct. We do it on a different
7 land base, we don't look at an individual timber
8 management plan in Ontario.

9 Q. No, I understand that.

10 A. We do it on a different land base.

11 Q. Yes. All right, thank you. If I
12 could turn to term and condition No. 13 now, dealing
13 with areas of concern. And, again, Mr. Kennedy, I have
14 a question for you.

15 Now, you were asked a few days ago, Mr.
16 Kennedy, a series of questions by Mr. Cosman relating
17 to hectares in reserves, and if I might quote Mr.
18 Cosman, and this is Volume 147 at page 25282. At line
19 11 he asked a question to you, Mr. Kennedy:

20 "As new areas of concern are created,
21 another area of the productive forest
22 from a timber management perspective
23 may be put into reserve; is that not
24 right?"

25 And you responded to that:

1 "Yes, that's true."

2 Do you recall that--

3 MR. KENNEDY: A. Yes, I do.

4 Q. --cross-examination question and
5 answer? All right.

6 Mr. Kennedy, in fact it doesn't
7 necessarily follow; does it, that as areas of concern
8 are developed more and more of the forest is being put
9 into reserve. Would that be a fair statement?

10 Well, if I can go on. What I'm
11 suggesting is that in fact wouldn't you agree that in
12 developing prescriptions for areas of concern the
13 emphasis is on carrying out timber operation
14 activities, either in the normal manner or with
15 specific modifications, so that in fact areas of
16 concern are not approached with the perspective of:
17 Let's put them into reserve because then we are ensured
18 of protecting that value; but in fact the perspective
19 is: Let's carry out operations, either normal or
20 modified, unless it's proven that a value can't be
21 protected?

22 A. I'd say your observation is
23 technically correct in that we are setting out to see
24 what operations, if any, can proceed in the area and,
25 as such, I think you recall the evidence given by Mr.

1 Bisschop in terms of the number of questions that are
2 asked in developing a prescription.

3 The very first question before getting
4 into the prescription is the identification of a
5 reserve if operations can't proceed, but I would also
6 say that our experience has been that in many
7 situations reserve decision is the only method
8 available to provide sufficient protection to the value
9 being identified and, as such, the comment that I made
10 was that as more and more areas -- sorry, more and more
11 values are identified, there is a greater proportion of
12 the land base that ends up in a reserve prescription.

13 There is also a portion of the land base
14 that would be eligible, if I could use that phrase
15 here, for modified operations.

16 So you are correct in that a value
17 leading to an area of concern prescription does not
18 necessarily mean that the area will be removed from the
19 production land base.

20 MR. FLEET: A. If I could just add to
21 that, based on my experience around the province on
22 various planning teams, to corroborate what Mr. Kennedy
23 said, you can have normal and you can have modified,
24 but by far the majority of area of concern
25 prescriptions that I have seen have been reserve

1 prescriptions.

2 Q. Right. Well, maybe I could bring
3 your attention, Mr. Kennedy, to Exhibit 818, Book 6.

4 MR. KENNEDY: A. Just a moment, please.

5 MR. FREIDIN: What exhibit number?

6 MS. BAIR-MUIRHEAD: 818. That's the area
7 of concern supplementary documentation.

8 MR. KENNEDY: Yes, I believe that's
9 the -- yes, I have a copy.

10 MS. BAIR-MUIRHEAD: Q. You no longer
11 have a copy?

12 MR. KENNEDY: A. That's right, I believe
13 I provided you with my copy.

14 Q. That's true.

15 A. I will borrow Mr. Multamaki's copy.

16 Q. Fine. Roman numeral (ii), the
17 Introduction.

18 A. Yes.

19 Q. And I would like you to just read the
20 first paragraph there.

21 A. Into the record or silently?

22 Q. No, just read to yourself.

23 A. Yes, I have read that paragraph.

24 Q. All right. And in particular the
25 last sentence that:

1 "It is the intent of the Ministry to
2 increase the amount of timber available
3 by providing opportunities for timber
4 management operations in areas previously
5 identified as reserves to protect other
6 resource values and to contribute to
7 their management."

8 Now, would you agree with me that, in
9 fact, it is the intent of the Ministry of Natural
10 Resources to increase the amount of timber available
11 notwithstanding the identification of a greater number
12 of areas of concern?

13 A. This paragraph is speaking
14 historically of the manner in which the area of concern
15 planning process has been developed. I believe it
16 refers to, I would say, approximately 15 years' worth
17 of history in developing the area of concern process.

18 I also advise that -- I have mentioned
19 this once before, I believe during cross-examination of
20 the development of the area of concern planning
21 process, from the time in which there were standard
22 reserve widths applied to, for instance, waterbodies;
23 at one time it was a standard approach to use a
24 400-foot reserve verbatim on all waterbodies of a
25 significant size with no consideration of what values

1 may be present. It would be a cookbook or a rule book
2 approach of a set distance regardless of values.

3 The Ministry of Natural Resources has
4 undergone a number of changes to that approach over the
5 years. We have had modified management areas, enhanced
6 management areas and currently we have areas of
7 concern.

8 The thread of change that has occurred
9 throughout those individual ways of handling values and
10 reserve prescriptions or prescriptions for operations
11 has been a shift in emphasis from being a rule book
12 approach to one that recognizes the individual values
13 that are present on the land base and developing a
14 prescription that recognizes that value and provides
15 the level of protection that is necessary.

16 And in doing that, in some situations,
17 the prescription could result in additional areas being
18 removed or modified from timber production to provide
19 sufficient protection; in other situations it will
20 result in less area than what might have been
21 allocated -- sorry, less area than what might have been
22 set aside 15 years ago.

23 So as an example, in the case of a
24 shoreline with steep slopes on a lake, 15 years ago it
25 might have been -- or would have been a practice to set

1 aside a complete 400-foot reserve; whereas today, under
2 the fish habitat guidelines which take into account
3 water quality, it could be conceivable that a 90-metre
4 reserve would be established on that same waterbody.

5 In doing that, setting aside that
6 reserve, the value of the water quality has been
7 protected and, in turn, the fish habitat has been
8 protected, as well as there is an additional volume of
9 wood freed up for the purposes of timber management.

10 Q. Mm-hmm.

11 A. And that's somewhat a long-winded
12 answer, but that is the historical -- that is still
13 being rather brief in the historical content, and
14 that's I believe reflected in this first paragraph that
15 you have taken me to.

16 Q. All right. And the net effect then
17 and the intent of the new policy, that is the throwing
18 out the cookbook approach as you describe it, is to
19 make; is it not, more land available for timber
20 management operations, normal or modified?

21 A. I would say the intent is to ensure
22 that we provide adequate protection to the individual
23 values that are identified and that, in some individual
24 cases, will result in additional areas being identified
25 for that individual value; other situations it may

1 result in less.

2 And, yes, the reasons for going with that
3 approach is that there was an expectation that the
4 overall -- there would be a net increase in the amount
5 of area and wood volume available while protecting the
6 values.

7 Q. Thank you. Mr. Bisschop, I have some
8 questions for you with respect to areas of concern
9 analysis, and in particular with respect to Appendix 1
10 of Exhibit 4, page 3 of Appendix 1, and in particular
11 step 2 which is the analysis of the alternative
12 prescriptions, and I believe that's summarized in term
13 and condition 13(c).

14 Now, if I might, Mr. Bisschop, you
15 identified I think in your examination-in-chief three
16 parts to that analysis and it is set out on page 3;
17 that is: (1) that you identify potential effects; (2)
18 you determine their significance; and, (3) preventive
19 and mitigative measures which could be employed to
20 reduce the effects. Is that correct?

21 MR. BISSCHOP: A. That's correct.

22 Q. With respect to the second part of
23 the analysis; that is, the determination of the
24 significance of those effects, at the top of page 4,
25 lines 3 and on says that:

1 "That is the translation of effects into
2 impacts by incorporating value judgments
3 and it is based on information which
4 may be both qualitative and
5 quantitative..."

6 And it gives examples for each. And I
7 would like to nail down what's meant by qualitative in
8 this context. The example that's used here is the
9 perceived value and sensitivity of the resource
10 feature, land uses or values affected.

11 And my question is: Suppose that the
12 feature that we are concerned with is, for example, a
13 fish spawning ground. Now, I could imagine that the
14 value of that particular feature might vary from
15 stakeholder to stakeholder depending on, for example,
16 if you are a tourist operator or a timber operator, but
17 is not the sensitivity of that fish spawning ground
18 something that could be objectively measured so that we
19 have an objective measure of the significance of a
20 particular effect, or have I interpreted that
21 incorrectly?

22 A. I think I would agree, and I would
23 suggest that in effect that measure of sensitivity is
24 addressed really in the fish habitat guidelines
25 themselves in terms of the direction -- the

1 consideration of sensitivity in terms of the direction
2 that's provided as to the protection measures that are
3 necessary; for example, the areal extent of a reserve
4 to protect, for example a spawning area.

5 Q. All right. Well, if I can continue
6 on, at the second paragraph on page 4 under (ii) it
7 says that:

8 "The significant impacts of each
9 alternative modified management
10 prescription are identified on the basis
11 of the professional knowledge and
12 experience of members of the MNR
13 multi-disciplinary planning team and
14 consideration of comments and submissions
15 from interested external participants
16 regarding the significance of the
17 predicted effects of each alternative."

18 Now, with respect to those judgments
19 being made which are qualitative, the EA Document
20 indicates that the significant impacts are identified
21 on the basis of the professional knowledge and
22 experience of members of the MNR team.

23 Would you agree with me -- and also
24 comments from other parties. Would you agree with me
25 that qualitative or value judgments are, by definition,

1 not able to be measured in an objective fashion?

2 A. Yes, I think that's understood.

3 Q. All right. And would you agree with
4 me further that the planning team, multi-disciplinary
5 as it may be, is going to place a certain -- or a value
6 on certain resource features or land uses or values
7 based on its mandate to both exercise its professional
8 judgment with respect to moose or fish guidelines or
9 whatever, but also to ensure an adequate supply of
10 wood?

11 A. Unquestionably, yes.

12 Q. All right. So, in other words, a
13 multi-disciplinary team in exercising its professional
14 judgment is also making a value judgment?

15 A. Yes, and I think that's fundamental
16 to this whole business of how significant are the
17 effects.

18 Q. All right. And could you agree with
19 me further then that the way in which the process, the
20 planning process is set up in dealing with modification
21 of operations in areas of concern, it becomes
22 absolutely essential to have input from potentially
23 affected members of the public in order to have a
24 balanced approach in choosing between competing values?

25 A. Absolutely, I agree.

1 Q. Because otherwise, without that kind
2 of input, we would have the planning team with its own
3 particular values perhaps assessing the impact of a
4 certain environmental effect as being very
5 insignificant with dramatic effects with respect to the
6 kinds of proposed or eventual prescriptions for
7 modified operations. Would that be a fair statement?

8 A. Yes. What I would add to that is
9 that the way we structure, if you will, the
10 decision-making on operations in areas of concern
11 generally through the, particularly the public
12 consultation dimensions of the process, is that the
13 intent is to have the planning team, on the basis of
14 their professional knowledge and experience and their
15 understanding to date of the public concerns, make a
16 proposal, if you will, that goes to the information
17 centre case by case, areas of concern by area of
18 concern.

19 And at the information centre the
20 judgments and decisions made by the planning team, of
21 course, are available for review and there is the
22 opportunity then for those judgments and decisions to
23 be, if you will, challenged and through further
24 consideration of those challenges, there may be changes
25 made to those preliminary proposals.

1 Q. Certainly I understand that. What I
2 am proposing, though, is where you do not have public
3 participation then, for whatever reason, the process is
4 seriously flawed?

5 A. How do you mean we would not have
6 public participation?

7 Q. Well if, for whatever reason, the
8 public does not come forward to provide you with, for
9 example, their view of the impact of a certain
10 environmental effect and, therefore, that is determined
11 to be very insignificant, the eventual prescription is
12 dramatically affected by that assessment; and what I am
13 suggesting to you is that where the decision is made
14 without input from the public, for whatever reason, the
15 process is flawed in that we have only the value
16 judgment of the planning team members?

17 A. My response to that would be very
18 simply that I believe that Ministry of Natural
19 Resources' staff are employed by the public, are -- in
20 the case of decision-making such as this in timber
21 management planning, a major part of their job is to
22 represent the interests of the public. So I couldn't
23 accept that their decision-making is fundamentally
24 flawed.

25 I think as part of their professional --

1 as part of them bringing their professional knowledge
2 and experience to decisions, part of that includes an
3 understanding and consideration of public values.

4 MR. KENNEDY: A. If you would allow me
5 to add to Mr. Bisschop's comments. In addition to
6 being qualified and trained staff, they are also
7 members of the community, they are locally based
8 individuals that are on the planning team and, as such,
9 they bring to that planning team their local experience
10 and the -- which has been gained through day-to-day
11 contacts and ongoing contacts with members of the
12 public.

13 And I would suggest to you that their
14 efforts at the planning table would reflect that
15 experience that they have gained dealing with local
16 individuals.

17 Q. Well --

18 THE CHAIRMAN: Mr. Kennedy, if you took
19 the proposition put forward that it would be much more
20 ideal to have direct input from the affected
21 stakeholder, rather than having to rely on MNR staff to
22 nevertheless represent them from their locally based
23 members of the community knowledge, then you are faced
24 with what happens if there is no voluntary
25 participation.

1 MR. KENNEDY: Yes.

2 THE CHAIRMAN: And that is the issue I
3 think that is fundamentally behind much of your
4 questioning this morning.

5 MS. BAIR-MUIRHEAD: That's correct.

6 THE CHAIRMAN: And I guess the
7 alternatives to the Board - and I wouldn't suggest it
8 is an alternative - is you can't make participation
9 mandatory in the sense that it wouldn't make much sense
10 for there to be some kind of decree that said: You
11 shall participate, whether or not you want to, in a
12 defined way.

13 And the Ministry has in its endeavors
14 sought to set out a process whereby the opportunity to
15 participate is there. But it, like anything else,
16 involves a response from others, and if you are faced
17 often with the fact that certain stakeholders do not
18 wish to participate, for whatever reason, how do you
19 break the impasse?

20 And you are indicating that one of the
21 other methods which the Ministry may face from time to
22 time as a way to break that impasse is that where there
23 is no participation, the Ministry staff represent the
24 public interest or represent the interest of that
25 stakeholder notwithstanding.

1 I mean, is that basically your position?

2 MR. KENNEDY: Yes, and I was taking
3 exception to the comments of the examiner being that
4 the process was fundamentally flawed in that absence --
5 in the absence of public input.

6 And the point that I was attempting to
7 make was that because our staff are based locally and
8 that they are there on an ongoing basis and they do
9 have those day-to-day contacts, that I do not feel that
10 there is always lost. I do feel that they bring
11 forward to the planning team representatives of local
12 individuals.

13 And I'm speaking from experience in that
14 regard, in that the planning teams are not removed from
15 the land base, they are not at some central location
16 preparing plans dealing with generic prescriptions out
17 of a textbook; they are individuals who have knowledge
18 of the land base, have knowledge of individuals locally
19 in the communities and I believe it's an important
20 element of the way in which the Ministry of Natural
21 Resources deliver its program.

22 THE CHAIRMAN: Well, I think the Board is
23 conscious of any process being, to some extent, a
24 two-way street; public participation in this hearing is
25 such an example.

1 A hearing process for the examination of
2 the Ministry's application has been set up to afford
3 members of the public the opportunity to participate.
4 Some are, obviously, we have before us some 60 parties
5 on the party list; others aren't and, to the extent
6 that they aren't putting forward their views to the
7 Board, the Board will nevertheless endeavor to
8 represent the public interest, but we won't have the
9 benefit of direct input which would probably be more
10 preferable.

11 And I would suggest that the Ministry is,
12 to some extent, faced with similar problems to an
13 administrative tribunal, whether it be this one or any
14 other one, that holds public hearings.

15 There are some difficulties and I think
16 the Board appreciates that in trying to design the best
17 process some adherence should be placed on the fact
18 that it is a two-way street and there may be
19 obligations on affected parties to participate as well,
20 if they want to be heard.

21 MR. KENNEDY: Yes, I agree, Mr. Chairman.

22 MR. MARTEL: Isn't there a problem though
23 that the public, and there is no expression that you
24 hear from being around.

25 MR. KENNEDY: I'm sorry, Mr. Martel, I

1 can't hear you.

2 MR. MARTEL: Isn't it a fact that the
3 public has a -- there's an old saying in the public,
4 you can't fight City Hall, and one of the problems that
5 might be confronting us is that people want in at the
6 initial level as opposed to somewhere down the stream
7 to...

8 How that has manifested itself, I don't
9 know, but certainly that's a concern that the public
10 has in this two-way street, this dialogue that must
11 develop, that we have to overcome that hurdle I think.

12 MR. KENNEDY: It is my view, Mr. Martel,
13 that in our situation with timber management planning
14 that it is an ongoing activity, it's not something that
15 is entirely new. I would suggest that there's a
16 certain amount of comfort in the public forum with the
17 efforts that have been made to date.

18 I acknowledge that there are individuals
19 and groups that are looking for refinements and, in
20 some cases, major changes to the ways in which Natural
21 Resources is approaching this subject. But we believe
22 we've structured the consultation opportunities to
23 allow for input early in the process and follow through
24 with the kind of proposals that we have made throughout
25 the planning process.

1 MS. BAIR-MUIRHEAD: I have two comments
2 arising with respect to the comments made by the Board
3 and by Mr. Kennedy.

4 One is that I think it was acknowledged
5 by Mr. Bisschop - and this is one of the points that I
6 am attempting to make - that in any event he agrees
7 that the multi-disciplinary members of the planning
8 team are making decisions from a certain perspective
9 and I think he acknowledged that they have -- they will
10 exercise their professional judgment, that they also
11 have as part of their mandate to ensure an adequate
12 supply of wood, and that imposes a certain perspective
13 on any decision-making and value judgments that they
14 may make, even assuming that the intent is to make them
15 in the interest of other stakeholders.

16 And the second comment I have, Mr.
17 Chairman, is that it is our client's view that there
18 are other ways of protecting the interests of certain
19 parties in the context of timber management planning
20 that do not involve the sort of -- or the kind of
21 public participation, voluntary, proposed by the
22 Ministry, that there are other ways of ensuring
23 protection of certain groups' interests, and I will
24 leave it at that.

25 Q. Mr. Multamaki, if I could have you

1 turn, please, to Exhibit 818, Book 6. In the
2 introduction we are dealing with area of concern in the
3 Red Lake Crown Management Unit. The introduction at
4 page 4 -- Roman numeral (iv), and the heading there is
5 Information Sources.

6 And on the left-hand column under
7 Information we have, first, fisheries and if you go
8 down to habitat, which is the third line, confirmed
9 reports is indicated as the source of information for
10 fish habitat.

11 MR. MULTAMAKI: A. That's correct.

12 Q. All right. And I think we have
13 already established that those confirmed reports are
14 garnered through the information centre process and
15 other casual contacts with interest groups?

16 A. I think there is a wide range of
17 methods with which those confirmed reports occur. For
18 example, another example would be trappers coming in
19 and identifying sensitive fish habitat; i.e., they were
20 out fishing and said: Hey, you know, I think you have
21 got a spawning area here. They would identify it to
22 the fur management officer and Fish and Wildlife would
23 confirm that report and, in fact, include it.

24 Q. Yes.

25 A. That's just an example. And, you

1 know, as I understand it, there is a wide range of how
2 this information is collected on an ongoing basis.

3 Q. All right. I'm simply making a
4 distinction between its collection on a systematic
5 basis and its collection through being out in the field
6 and happening upon that information or it being
7 provided to you in that way.

8 MR. McNICOL: A. Ms. Bair-Muirhead, a
9 couple of the other sources that are indicated there,
10 stream surveys -- sorry, stream surveys aren't there,
11 but I know from personal knowledge, and certainly Mr.
12 Multamaki or Mr. Groves could confirm, stream surveys,
13 also another source of information with regard to
14 habitat definition and confirmation, also lake surveys.

15 Q. All right.

16 A. And those are systematic approaches,
17 if you will, that the Ministry undertakes to ascertain
18 those values.

19 Q. All right, thank you. If we could
20 turn, Mr. Multamaki, to Roman numeral (viii) then, No.
21 8. And that's a paragraph which deals with cases in
22 which there is no information on a waterbody to
23 determine whether there are significant features such
24 as spawning habitat, for example.

25 MR. MULTAMAKI: A. Could you repeat your

1 question, I...

2 Q. Okay. My question is -- I haven't
3 asked it yet.

4 A. Oh, I'm sorry.

5 Q. Paragraph 8, the last sentence, it
6 says:

7 "If time permits, aerial or ground
8 inspections or test netting studies are
9 conducted to confirm the lake type
10 and/or fish communities."

11 Can you tell me, what determines if time
12 permits; on what basis is that decision made? And it
13 may be Mr. McNicol who should be answering this
14 question for me.

15 A. I think Mr. McNicol is qualified to
16 answer that, I'm not.

17 Q. All right.

18 MR. McNICOL: A. I think it's important
19 to remember that this statement and this plan took
20 place before we had direction with regard to minimum
21 information required for input into the timber
22 management planning exercise vis-a-vis fish.

23 Q. Yes. And what difference would that
24 make to this particular prescription here?

25 A. If your concern is for unknown

1 values, if you will--

2 Q. Yes.

3 A. --fisheries values within
4 waterbodies, the direction now is that if you have
5 unknown values within a waterbody they are treated with
6 a reserve because you have not been able to identify
7 critical fish habitats.

8 For instance, because you haven't been on
9 the water, you are not sure what the community is in
10 that waterbody--

11 Q. Yes.

12 A. --it is automatically treated with a
13 reserve predicated on slope, so that whatever the value
14 is there it will be adequately protected.

15 Q. All right. And is that -- there is
16 an automatic reserve, is that until such time as the
17 aerial or ground inspections are -- there is a
18 systematic collection of data which takes place to
19 confirm?

20 A. After the fact?

21 Q. Yes.

22 A. Could very well be.

23 Q. All right.

24 A. But I submit that with the
25 application of the reserve, whatever the value, the

1 reserve is conservative enough that it would protect a
2 warm water or a cold water community, whichever exists
3 in that particular waterbody.

4 Now, obviously once that particular
5 waterbody is made accessible through timber harvesting
6 operations, it will be eligible for sportsmen,
7 fishermen and also for our lake survey crews. So I
8 would submit that information would be gathered for
9 those waterbodies after the fact.

10 Q. But it is given immediate area of
11 concern designation and put into a reserve?

12 A. It does.

13 Q. All right. If I could turn to term
14 and condition No. 21.

15 MS. BAIR-MUIRHEAD: Mr. Chairman, I don't
16 have any questions with respect to this particular
17 provision. I only wish to put on the record that our
18 position is similar to the views expressed by several
19 other parties, that review is inadequate and that there
20 are serious deficiencies in this term and condition.

21 MR. FLEET: Ms. Bair-Muirhead, No. 21
22 refers specifically to the Ministry of Natural
23 Resources' internal review of the plan.

24 The evidence that we have led indicates
25 too that there are formal public opportunities for the

1 review of timber management plans and they are dealt
2 with in subsequent terms and conditions, I believe, for
3 example, No. 23.

4 MS. BAIR-MUIRHEAD: My comments would be
5 with respect to provisions 21 through to 24.

6 Term and condition No. 26, and if I could
7 just clear something up with Mr. Bisschop first I may
8 not have any further questions. This is a question
9 with respect to contingency plans.

10 Q. And my question, Mr. Bisschop, is:
11 Are contingency plans contained -- ever contained in
12 the timber management plan at its initial point, at the
13 time when it's approved, or are they always planned for
14 at a later date, after the approval of the plan itself?

15 MR. BISSCHOP: A. Again, just to perhaps
16 clarify your understanding.

17 Q. Yes.

18 A. The provision for contingency plans
19 is, if you will, an interim provision until an approved
20 plan is in place.

21 Q. Yes.

22 A. You understand that?

23 Q. Well, I'm really asking: Is there
24 ever a time when a contingency plan is contained in the
25 approved plan? In other words--

1 A. No, they are --

2 Q. --it is never anticipated that you
3 are going to need a contingency area, therefore -- or
4 plan, and it is included in the plan right from the
5 outset and approved. Does that ever occur?

6 A. They are two separate documents.

7 Q. All right.

8 A. It is possible that a contingency
9 plan would within it contain operations that were being
10 planned during the preparation of the timber management
11 plan; that plan simply couldn't be finalized on time--

12 Q. Yes.

13 A. --and some activities would be
14 brought forward into the contingency plan to allow
15 operations to proceed.

16 Q. All right.

17 ---Discussion off the record

18 MS. BAIR-MUIRHEAD: Yes. I think Mr.
19 Freidin has clarified this for me. What I am really
20 referring to is contingency areas. Yes, that's
21 correct.

22 Q. So those would be included in the
23 timber management plan that was to be approved?

24 MR. BISSCHOP: A. Contingency areas?

25 Q. Yes.

1 A. Yes, that's a requirement.

2 Q. All right. Well, I do have a couple
3 of questions then, Mr. Bisschop. If you recall a
4 discussion with Mr. Lindgren in his cross-examination
5 relating to a lack of bump-up provisions with respect
6 to annual work schedule.

7 A. Yes.

8 Q. Do you recall that portion of his
9 cross-examination?

10 A. Yes, I recall.

11 Q. And a concern was raised there with
12 that the approval of the timber management plan in
13 areas of normal operations a whole range of
14 silvicultural practices could be employed, but that the
15 particulars of what might be used on a particular site
16 would not be known until the time of the annual work
17 schedule, the preparation of the annual work schedule.
18 You recall that?

19 A. I recall that, yes.

20 Q. Fine. So that if an individual had a
21 difficulty with the use of, say, prescribed burn in a
22 specific area, if no bump-up was available at the time
23 of the annual work schedule, then any objection would
24 have to be made prior to the approval of the five-year
25 plan?

1 A. That's correct.

2 Q. And a concern was raised that it
3 would be open to the Minister -- Ministry at that early
4 date to argue that this objection shouldn't be the
5 subject of a bump-up because that's not an issue now
6 and it may never be an issue.

7 And I believe that the response - and I'm
8 not sure if it was by you or if it was by Mr. Kennedy -
9 was that that wasn't the direction the Ministry would
10 take.

11 But, in any event, my question is: I am
12 going to suggest that there is the same concern that
13 could be expressed with respect to contingency areas;
14 that is, if the bump-up request is confined to when a
15 plan is being approved, then again isn't it open to the
16 Ministry to argue that the request is premature,
17 unwarranted because that particular contingency plan
18 may never be put into effect?

19 A. That operations may not occur in the
20 contingency area?

21 Q. That's right, that's right. I guess
22 my question is: Is that a concern and how does the
23 timber management process protect against the Ministry
24 adopting such a position?

25 A. I think all I can do is reiterate our

1 position that the planning of operations is dealt with
2 in the timber management plan, it is during the
3 planning of operations that the bump-up provisions are
4 provided.

5 In the case of a contingency area, the
6 contingency area is clearly defined in the timber
7 management plan and that operations cannot occur in a
8 contingency area unless requested and approved by the
9 district manager at some time during the term of the
10 plan.

11 THE CHAIRMAN: But isn't the point that
12 the timber within the contingency areas have received
13 approval for allocation, if that's the right term --

14 MR. BISSCHOP: And all of the planning of
15 operations will have been completed as well in the
16 preparation of the timber management plan.

17 THE CHAIRMAN: So is what you are saying
18 effectively that, notwithstanding that operations may
19 not in fact be carried out in a contingency area, you
20 could still apply for bump-up during the preparation of
21 the plan which identifies the contingency areas?

22 MR. BISSCHOP: That's right. It's at the
23 time of plan preparation in which any concern that
24 might manifest itself in a bump-up request is
25 addressed.

1 THE CHAIRMAN: Okay. Apart from the
2 Ministry's position on bump-ups in general, to answer
3 your specific question, would somebody requesting a
4 bump-up likely be met with the argument that no
5 operations are planned and therefore no bump-up?

6 Is that the gist of your question?

7 MS. BAIR-MUIRHEAD: That's exactly the
8 concern, yes.

9 MR. BISSCHOP: I don't think we would do
10 that. I think we would assume -- we would make the
11 assumption that it is possible during the five-year
12 term that we would go into that contingency area and
13 treat it the same.

14 THE CHAIRMAN: So that there is no
15 different consideration than any other consideration
16 for which bump-up might be requested?

17 MR. BISSCHOP: That's right, we would
18 treat it the same.

19 MS. BAIR-MUIRHEAD: All right, thank you.
20 Finally, Mr. Chairman, term and condition No. 28. It
21 is dealing with amendments and the classification of
22 amendments.

23 Q. And, Mr. Bisschop, I would like to
24 ask you: Do you not see any problem in having
25 classification of amendments to the timber management

1 plan being made by your Ministry, I mean, given that
2 the classification will itself have significant impacts
3 on the level of public consultation required?

4 MR. BISSCHOP: A. Again, I think we have
5 indicated in our direct evidence that the way we have
6 structured the approach to amendments is that a request
7 is first required, the Ministry through the district
8 manager assesses that request and in that assessment we
9 have indicated, on pages 171 and 172 of the Class EA, a
10 number of questions that need to be addressed so that a
11 responsible decision is made, first of all, in terms of
12 granting the request at all; and then, secondly, in
13 terms of the category of request that applies.

14 And I think we've also indicated in that
15 that a principal consideration of the district manager
16 will be what kind of public consultation should be
17 required for a particular amendment, and we have
18 indicated that he may make the decision that it's -- in
19 the case of minor, that a decision on the proposal can
20 be made subject to public review; in the case of major
21 amendments, that there is a requirement for active
22 involvement publicly in the development of the proposal
23 as well as the review.

24 Q. All right. But isn't the reasoning
25 involved in this classification of amendments somewhat

1 faulty in that asking the question - I think it would
2 be fair to call it the threshold question about public,
3 or at least a primary question about public
4 consultation - asking that question may not advance us
5 very far.

6 For example, with respect to rerouting a
7 road, and I think that was an example used in your
8 direct examination, the district manager's question:
9 How do I assess the need for public consultation, isn't
10 particularly helpful because I am going to submit that
11 it is the consultation with the public which would
12 identify for you whether in fact this is a major or a
13 minor amendment, that the impacts on the user groups
14 would have to be determined before making that
15 determination?

16 A. Again, I would suggest that he has --
17 well, the planning team and the district manager have
18 available to them a certain knowledge base already. It
19 is not as though you are making a decision in a total
20 vacuum.

21 So, for example, you do have a knowledge
22 base about potentially affected parties related to the
23 specific proposal. And I believe in some of the
24 examples that Mr. Fleet used in direct evidence to show
25 how a different decision may be made, depending on the

1 kinds of information that you know about, that he is
2 making a responsible decision at that time based on
3 information including information about the concerns
4 and values of potentially affected parties.

5 And in the case of a minor amendment
6 decision, he is making a -- on the basis of that
7 knowledge, making a decision subject to confirmation,
8 review by the public that supports that decision.

9 In the case of a major amendment, he is
10 saying I have this knowledge base, but I don't have a
11 complete knowledge base that public consultation will
12 provide to me in both the further development of the
13 proposal and the ultimate decision.

14 Q. All right. But in the case of at
15 least the administrative amendment, that decision is
16 made without any test? I mean, you never know whether
17 you are right or wrong about the level of public
18 consultation that perhaps ought to have occurred?

19 A. That's possible. I would suggest
20 that the district manager would act conservatively in
21 those situations. He would error on the side of: If
22 there is any doubt, I will make sure that I proceed
23 with a higher level of amendment.

24 Q. But we are totally dependent then
25 upon the use of the district manager's discretion? The

1 public does not have any review of that?

2 A. In the case of administrative,
3 dependent on the responsible exercise of district
4 manager discretion.

5 Q. All right.

6 MS. BAIR-MUIRHEAD: Thank you very much,
7 Mr. Bisschop.

8 Mr. Chairman, those are all my questions.

9 THE CHAIRMAN: Thank you.

10 Before we proceed with the submissions of
11 the members from Red Lake, we think we will probably
12 take a very short break, maybe 10 minutes, to allow you
13 to set up, et cetera, and proceed I suppose for an hour
14 or so before we contemplate any kind of lunch break.

15 Do you have any idea today, based on the
16 examinations to date, how long you might be if we start
17 in about 10 minutes?

18 MR. AXFORD: Yes. I guess it would
19 depend on whether or not we seem to be able to make our
20 point and how much is going to come back on it.

21 We are very aware of your travel
22 schedules and we will make every effort to accommodate
23 that, but we would appreciate an opportunity when it
24 comes time to wrap up -- and if the Board has a number
25 of questions of the kinds of things that we intend to

1 bring out, if it becomes necessary, we are prepared to
2 come back another day. That's not a problem.

3 THE CHAIRMAN: Very well. All right.
4 Well, we will proceed in ten minutes and go from there.

5 Thank you.

6 ---Recess taken at 11:25 a.m.

7 ---On resuming at 11:35 a.m.

8 THE CHAIRMAN: Thank you. Be seated,
9 please.

10 Very well, Mr. Axford, we are ready.

11 MR. McNICOL: Mr. Chairman, if I may, I
12 would like to revisit a point that I addressed with
13 regard to one of Ms. Bair-Muirhead's questions.

14 The question had to do with insufficient
15 information with regard to waterbodies, and I believe I
16 may have unintentionally misled you with regard to the
17 way we treat those areas.

18 If you look at our term and condition No.
19 44 and key on the last sentence:

20 "In the absence of sufficient
21 information, reserves in which no timber
22 management operations will be permitted
23 shall be prescribed, or selection harvest
24 operations may be permitted, provided
25 that it can be demonstrated that fish

1 habitat will be protected."

2 I think I may have left you with the
3 impression that it was always a reserve; i.e., a no-cut
4 situation.

5 MS. BAIR-MUIRHEAD: Yes.

6 MR. McNICOL: And that is not correct.

7 MS. BAIR-MUIRHEAD: All right. Thank
8 you. That addresses that, thank you.

9 THE CHAIRMAN: Mr. Sayeau, I understand
10 that you are going to participate as well on this
11 examination; is that correct?

12 MR. SAYEAU: Well, I'm going to try to.
13 Just a few words of introduction, if I might.

14 We appreciate the opportunity to
15 cross-examine this panel in an effort to further
16 elaborate on the principles we tried to establish in
17 Dryden.

18 What we hope to bring to the proceedings
19 today is the perspective of an active involved
20 participant in the planning process and perhaps to show
21 the frustration and sense of futility which that
22 process builds up and creates within those who attempt
23 to participate.

24 We certainly have none of the skills of a
25 lawyer in cross-examining a witness, but we will try to

1 make some basic points and will rely on the Chair for
2 direction and guidance.

3 We have come, again, at our own expense
4 because this issue is so important to resource-based
5 communities and we believe that the present planning
6 process is so weak and has so many flaws in it and that
7 it does fail to address the social and economic issues
8 within extraction communities in such a blatant manner
9 that we don't believe that Ministry of Natural
10 Resources should be provided with any level of
11 exemption from the EA process.

12 At this time the full force of the
13 Environmental Protection Act is the only way we can
14 ensure that social and economic issues will be dealt
15 with.

16 There are two of us appearing today,
17 myself and Bob Axford. Both of us live in what we
18 consider to be a fragile resource dependent community.
19 Neither of us are tourist operators nor are we timber
20 harvesters. We are both business people, resident in
21 the northern community of Red Lake, and I would also
22 like to make it clear that I am again officially
23 representing the Council of the Township of Red Lake.

24 Just a bit of background. Out-of-town
25 pressures for delivery of what others consider to be a

1 limitless resource jeopardizes the fragile economic
2 environment of our community every day. Callous,
3 single-use allocation of wilderness parks and natural
4 disasters, such as forest fires, drive legitimate
5 multiple use operators and timber harvesters closer and
6 closer to fragile but viable world class tourism
7 values.

8 In our cross-examination we are not
9 attempting to support parks or tourism values, simply
10 we are trying to illustrate the necessity of balancing
11 social and economic values within the forest
12 management/timber harvesting process.

13 In this process, many conflicts which
14 require careful judgment and carefully evaluated
15 tradeoffs present themselves as the timber
16 harvest/forest management process is played out.

17 Now, we are going to attempt to do this
18 by sharing with the questioning and Mr. Axford will ask
19 a few preliminary questions and then I will come back.

20 THE CHAIRMAN: Okay. Mr. Sayeau, just if
21 I might sort of prescribe the ambit of the process
22 within which you are involved at the moment.

23 As you are aware, all of the parties who
24 wish to participate will have an opportunity to present
25 their own evidence at an appropriate time, and I think

1 you are also aware that it is the Board's intention to
2 visit Red Lake specifically as one of the designated
3 locations. So that to the extent that the Council that
4 you represent wishes to take an entirely different
5 position in terms of timber management planning than
6 the Ministry has taken in presenting their case, we
7 will hear from you at that time.

8 MR. SAYEAU: Yes, right.

9 THE CHAIRMAN: What we are primarily
10 trying to accomplish during the cross-examination phase
11 is to allow parties, whether represented by lawyers or
12 counsel or otherwise, to question this panel
13 specifically on what has been put forward by the
14 Ministry, and we are quite prepared to allow a
15 reasonably wide latitude in terms of your examination
16 and will do so, but we want to ensure that you
17 understand that this isn't the time to put forward--

18 MR. SAYEAU: Yes.

19 THE CHAIRMAN: --what you would like to
20 see happen.

21 MR. SAYEAU: No, exactly. And if I may,
22 we understood that this would be the only opportunity
23 that we would have to question the Ministry and the
24 forester with regard to the planning that was done with
25 the Red Lake Crown Management Unit--

1 THE CHAIRMAN: Yes, that's entirely the
2 focus.

3 MR. SAYEAU: -- the process itself and,
4 if we may, we would like to look at - because I think
5 it hasn't been dealt with - the results of the process
6 as it actually turned out on the ground.

7 THE CHAIRMAN: Yes, and that's fair
8 grounds for cross-examination as well.

9 MR. SAYEAU: And I think that the point
10 that we are trying to establish here -- and perhaps I
11 am going beyond where I should be going, but I think
12 the point that we are trying to establish here is that
13 the present process we feel has failed us, and for
14 reasons that will become obvious, and to just leave
15 that hanging in anticipation of our next presentation.

16 THE CHAIRMAN: Very well.

17 MR. AXFORD: Thanks, Pat.

18 Mr. Chairman, I think the reason we did
19 the lengthy introduction is because we have not, as you
20 are aware, been party of many of the other panels and
21 although you were in Dryden many of the other people do
22 not know us. So we had to start from somewhere.

23 In the first area of questioning I would
24 like to deal particularly with Hartley and our
25 questions primarily will be dealing with Hartley.

1 THE CHAIRMAN: That is Mr. Multamaki.

2 MR. AXFORD: Pardon me. Mr. Multamaki,
3 excuse me, because of the fact he was the main author
4 of the original plan for Red Lake.

5 CROSS-EXAMINATION BY MR. AXFORD:

6 Q. And I would like to start right off
7 in Volume I, page 16. You don't have to refer to it if
8 you don't want to, that's your curriculum vitae.

9 There are a couple of things that I would
10 like to point out in there, Hartley, and just -- pardon
11 me, Mr. Multamaki, just to see if they are true. If
12 you don't know what it is, you better refer to it.

13 I would just like to ask you if you have
14 any special economic background that is perhaps not
15 noted in there?

16 MR. MULTAMAKI: A. With respect to
17 formal economic background, no. However, as shown in
18 my curriculum vitae, I do have a certain amount of
19 industrial experience which, I guess, gives a limited
20 amount of financial understanding with respect to
21 operations and the industrial side of operations.

22 Q. Do you have any business training or
23 any experience in that area?

24 A. Business courses in university but,
25 again, limited. It was --

1 Q. Practical experience?

2 A. Somewhat limited again.

3 Q. Do you have -- have you had any
4 upgrading to allow you to make socio-economic
5 judgments? Is there anything in that presentation on
6 page 16 that would indicate that?

7 A. No, not the formal ones that
8 you're -- I think that you're looking for.

9 Q. Going on to the same question for
10 other panel members, perhaps for Mr. Groves, again
11 involved with an update of the plan, or perhaps Mr.
12 Kennedy or Mr. Bisschop for just a minute.

13 Do I read in your background any formal
14 training in economics or any practical experience in
15 business? Have I missed something?

16 MR. GROVES: A. No, I think that the
17 training that I have had is identified in the
18 appropriate documents.

19 MR. KENNEDY: A. I believe I responded
20 to a question in cross-examination by Mr. Edwards from
21 Northern Ontario Tourist Outfitters that I have not had
22 any extensive experience in business. And as far as
23 formal training in economics, like Mr. Multamaki, as
24 part of our formal education to obtain the Bachelor of
25 Science, we've had some -- I've had some training in

1 economics, but certainly nothing in particular that
2 would deal with broad scale economics related to timber
3 management.

4 Q. Any other panel members want to...

5 MR. BISSCHOP: A. I'd simply offer the
6 same comments as Mr. Kennedy.

7 MR. FLEET: A. With respect to formal
8 education, at Toronto anyway, to get your Bachelor of
9 Science you have to take one course called Economics
10 100 and then you have to take a course in third year
11 called Price Theory and they are both formal economic
12 training, if you will.

13 And then subsequent to that in terms of,
14 if you will, upgrading I did attend a Ministry of
15 Natural Resources' workshop regarding financial
16 analysis put on by our provincial economist --
17 provincial forest economist within Ministry of Natural
18 Resources.

19 Q. Again, if I'm correct, Mr. Churcher,
20 that primarily has to do with wood -- pardon me, Mr.
21 Fleet, it primarily has to do with the price of wood
22 and the economics of moving wood as opposed to the
23 economics of running a small business in one of these
24 communities? That's basically where I'm going here.

25 A. Well, the Economics 100 course was in

1 fact a general pre-medicine economics course, it didn't
2 have anything to do with moving wood, and the Price
3 Theory course was more to deal with wood, and then the
4 financial analysis workshop, although the examples that
5 were used were wood oriented, if you will, so that we
6 in the Ministry could relate well to those, they were
7 fundamental principles in any type of financial
8 analysis.

9 Q. Is there anyone on the panel that
10 would offer that they have background training or
11 experience to make a professional economic judgment of
12 the economic impacts on extraction communities?

13 MR. McNICOL: A. With respect, Mr.
14 Axford, no to that question, but I would suggest I have
15 learned more about the economics of certain business
16 operations in my experience working for the Ministry
17 then I ever learned at university, and I can say the
18 same of some of my biology and forestry courses as
19 well.

20 Q. I'm satisfied with the first part of
21 the answer.

22 MR. MULTAMAKI: A. I think, Mr. Axford,
23 it would be fair to say that all of us have limited
24 formal training; however, over the years there is a
25 great deal of experience and, I guess, actual knowledge

1 from what you would call a school of hard knocks and I
2 think our range of experience would lead us in that
3 direction.

4 Q. So you would qualify yourself perhaps
5 as a competent member of the public in that area, but
6 in your professional background you are foresters and
7 that is your correct role?

8 A. Professionally, yes.

9 Q. Okay, thank you. I also like to
10 question something else that really showed up in most
11 of these assessments of what you have done and what
12 your skills and experiences are and it certainly brings
13 into question something that Mr. Kennedy was talking
14 about, that you have roots in the community.

15 I notice that a number of you - not
16 directing it at any one in particular - but I would
17 wonder if anyone would want to respond that they have
18 roots of long duration in any one community. It
19 appears that you move with job opportunities and your
20 duration in a community may very well be only a couple
21 of years.

22 MR. KENNEDY: A. I would respond to
23 that. I think it has been demonstrated that we have a
24 large number of staff that do remain in one place. I
25 can speak from personal experience in the 11 odd years

1 that I spent in Dryden District as a unit forester as
2 well as a forest management supervisor. I consider
3 that a considerable amount of time.

4 I can advise you that I was viewed as an
5 integral part of the community, I believe, by my fellow
6 residents in the rural area that I lived in outside of
7 Dryden and also I found it very difficult to leave
8 Dryden to move on to accept other positions within the
9 Ministry.

10 Q. Okay.

11 MR. McNICOL: A. Mr. Axford, I have
12 worked in Thunder Bay District for 13 years with the
13 Ministry of Natural Resources.

14 Q. Okay. Perhaps I'm going to do that a
15 little bit differently. Mr. Groves, how long have you
16 been in Red Lake?

17 MR. GROVES: A. I started in Red Lake in
18 May of 1988.

19 Q. And are you currently writing a
20 timber management plan in Red Lake?

21 A. No, I'm not.

22 Q. Is the Ministry currently involved in
23 the process of creating a timber management plan?

24 A. That's correct, Mr. Sidders is
25 preparing one.

1 Q. Thank you very much. And maybe we
2 should just ask: About how long has Mr. Sidders been
3 there?

4 A. I believe he arrived in Red Lake
5 early 1988, maybe fall of '87, around that time, but I
6 am not positive.

7 Q. Thank you. Is it practice that the
8 Ministry would from time to time offer housing of
9 various descriptions to their employees?

10 MR. KENNEDY: A. It was a practice, Mr.
11 Axford, at one time that there were housing
12 opportunities made available to many government
13 employees on the basis of attracting individuals to the
14 community. I believe that practice has recently been
15 reviewed by the government as a whole and is on the
16 decline.

17 Q. Okay. I am aware of that and I
18 just -- if I have to be more specific. Hartley --
19 pardon me, Mr. Multamaki, where did you live when you
20 were in Red Lake?

21 MR. MULTAMAKI: A. I lived -- when I
22 left I owned a house and sold a house, but I am sure we
23 are headed towards the fact that I had a Ministry house
24 prior to that.

25 Q. Exactly.

1 A. And in fact had moved out of the
2 Ministry house into a home that I had purchased within
3 the Red Lake area.

4 Q. I think the point that I am trying to
5 get at, Mr. Multamaki, is that a person that was living
6 in a Ministry house would be less aware of the tax base
7 of the community and the assessment and taxes he has to
8 pay on that house?

9 A. I am not sure that I can agree with
10 that. Certainly I can only speak for myself and I was
11 quite aware of that, and mostly because of the fact
12 that I was looking at purchasing a house, and it's my
13 understanding that a number of people do move into
14 Ministry houses and then purchase houses subsequently
15 when one becomes available within the area.

16 Q. Very commendable and we certainly
17 appreciate that. The point that I am trying to make
18 here is that, what roots do these people have in the
19 community? And Mr. Kennedy's comment earlier had
20 indicated that we are all local people and there are
21 varying degrees of local, so that's the only point I am
22 trying to make.

23 Okay. From there I would like to go --
24 oh, the last point I suppose in that area is that the
25 people that we are dealing with, that we are talking

1 about that are professional foresters, and in Mr.
2 Multamaki's case, these people chair and set the tone
3 for the various timber management planning groups.

4 Sorry?

5 MR. KENNEDY: A. Was that a question?

6 MR. FREIDIN: Mr. Chairman, I don't -- I
7 have no point.

8 THE CHAIRMAN: I think the objection that
9 Mr. Freidin may have raised is the fact, sir, that you
10 are making the statement as opposed to putting
11 forward--

12 MR. AXFORD: Okay.

13 THE CHAIRMAN: --a question and eliciting
14 an answer--

15 MR. AXFORD: I will try and ask a
16 question.

17 THE CHAIRMAN: --which effectively may
18 arrive at the same place.

19 MR. AXFORD: Okay.

20 THE CHAIRMAN: But if it's not the
21 evidence of the witnesses, it would then become the
22 evidence of yourself as to that conclusion and that is
23 not quite the subject of cross-examination.

24 But, again, we are reluctant to sort of
25 jump in every time you perhaps stray over the line

1 because that is not the purpose of the Board in
2 restricting cross-examinations of this type.

3 So, Mr. Freidin, unless you have a really
4 major problem, perhaps - and this is addressed to the
5 other counsel as well - the Board is cognizant of the
6 rules of cross-examination and evidence, et cetera, and
7 will weigh any answers elicited appropriately.

8 So I don't think it's necessary to jump
9 up and object, unless of course it's such a fundamental
10 error that you feel that it just has to be put on the
11 record.

12 MR. FREIDIN: I understand and I
13 apologize for letting myself get to the point where I
14 bit my tongue.

15 THE CHAIRMAN: Very well, Mr. Axford.

16 MR. AXFORD: Thank you, Mr. Chairman.

17 Q. Mr. Multamaki, could you tell me one
18 more thing. On the curriculum vitae, do I read it
19 correctly that you were employed in some manner by
20 perhaps the MNR to do some kinds of targets on the West
21 Patricia Land Use Plan. Could you just explain that to
22 me?

23 MR. MULTAMAKI: A. Yes. If I could have
24 a second, I will locate that in my curriculum vitae,
25 but I think you are referring to the West Patricia land

1 use planning exercise--

2 Q. Yes.

3 A. --and my involvement in that.

4 Yeah. On page 19 of Exhibit 818A under
5 Duties, the position was forester in training. From
6 May of 1980 to July of 1981 I was involved in assisting
7 with the assessment of timber values and concerns in
8 the West Patricia Land Use Plan for the Red Lake
9 District. That I assume is what you are referring to?

10 Q. My question in that regard was: Did
11 you bring with you into the timber management planning
12 any preconceived notions from your work in that area?

13 A. I think certainly it provided a
14 portion of my previous job experience and added to my
15 knowledge base and whether in fact it was reflected in
16 timber management planning, certainly I was aware of
17 what had taken place as a result of that exercise.

18 MR. KENNEDY: A. Mr. Axford, I feel I
19 should point out that -- I should point out to you that
20 in the preparation of District Land Use Guidelines, the
21 timber values in this context was simply a tallying of
22 the amount of timber that was available within the park
23 areas, I believe is the example that Mr. Multamaki has
24 referred to in his CV.

25 So there is no value attached to it as

1 you may think, other than a straight numerical
2 representation of the volume of wood and area of wood
3 involved.

4 Q. I am not totally convinced of that
5 answer, but I accept your comment. I think I would go
6 for a minute to the area of participation.

7 Both the Chairman and a number of the
8 panel members have commented that it's extremely
9 difficult to deal with the fact that the public
10 participation isn't always what you want.

11 And I would question first of all, Mr.
12 Multamaki. When you first put out a notice of
13 planning - you can almost pick any one of the notices -
14 what is the degree of public participation or what was
15 the degree in the case of Red Lake?

16 MR. MULTAMAKI: A. Certainly at the
17 various stages there was public input and public
18 participation. I think your associate Mr. Sayeau was
19 involved as a result of that. He, for example, is one
20 of the individuals that did participate in the planning
21 exercise.

22 Certainly a number of interest groups
23 participated. You know, a lot of this -- or all of
24 this stuff is documented in the supplementary
25 documentation and so on.

1 However, in addition to the I guess
2 formal participation, there also was a great deal of
3 informal participation. Individuals such as yourself,
4 for instance, coming in and talking to the MNR staff,
5 myself, the district manager and so on, and it's hard I
6 guess to -- the dividing line between formal and
7 informal participation isn't a black and white line,
8 let's say.

9 Q. What I am trying to reach here is
10 that, is it fair to characterize the formal public
11 participation sometimes as if you are pulling teeth, or
12 am I reaching too far with that?

13 A. If you could clarify that for me,
14 what exactly do you mean by pulling teeth?

15 Q. You know, you didn't have a line up
16 in front of the Polish Hall to come and see your plans.

17 A. Yeah, I guess if you are just adding
18 up numbers, there were not a lot of individuals at --
19 for instance, you are talking about the information
20 centre?

21 Q. Sure.

22 A. There were not a great number of
23 individuals at the information centre compared to
24 perhaps what you would see at an information centre in
25 a larger centre such as Thunder Bay and so on.

1 Certainly the individuals that were there
2 represented a range of interest groups and a range of
3 general public and certainly concerns were raised by
4 some of those individuals.

5 Q. No problem. I wonder if any of the
6 panel members would want to give some opinion on--

7 MR. KENNEDY: A. Certainly.

8 Q. --on why we didn't have a line up or,
9 you know, for example, why we've had low participation
10 from traditional use groups or that type of thing.

11 Do you have any comment on that? Perhaps
12 Mr. Fleet or Mr. Multamaki?

13 MR. KENNEDY: A. I don't think I could
14 comment on what has happened in Red Lake, but I can
15 speak for my own experience in the Dryden area.

16 Q. Well, I am mostly interested in Red
17 Lake because that is what we are trying to deal with
18 here.

19 MR. MULTAMAKI: A. Yeah. I guess as a
20 comment on that, Mr. Axford, there were a number of
21 interest groups, local tourist operators and so on, who
22 had been discussing the various issues with the
23 Ministry for a great period of time, and I am referring
24 to the Little Vermilion Lake situation.

25 One of those individuals, in fact, did

1 not show up at the information centre because he
2 apparently was satisfied with the outcome of the
3 discussions that had taken place and the proposal that
4 was being presented at the information centre.

5 So that in fact was one individual who
6 was -- seemed to be satisfied with the outcome of the
7 various discussions that had taken place with the
8 Ministry.

9 Certainly we had been dealing with a
10 number of other members of the general public and the
11 interest groups; i.e., the timber operators seemed
12 quite comfortable and satisfied with what was taking
13 place. So perhaps it was a case of, through
14 discussions with the Ministry, they felt that their
15 concerns were being adequately addressed.

16 MR. GROVES: A. Mr. Axford, I might want
17 to add possibly a comment to that. In that looking at
18 record of level of participation that Mr. Multimaki
19 had when he first did his plan and comparing that to
20 the level of participation we had with the last two
21 management plans, I think you'll see there is an
22 increase and I think none of us will disagree that the
23 number of participants that come out compared to the
24 number of invitations that go out is probably low, but
25 the number of overall participation has definitely

1 been up.

2 Q. I am very interested in that comment,
3 Mr. Groves, and I wonder -- the question I asked is,
4 why these things are happening and do you have any --
5 would you attribute it, for example, to the panic that
6 is going on?

7 A. No. I think it's just the concern
8 and people now are taking more of an interest and the
9 kind of interest that we are getting is people are --
10 okay: How do we participate, where can we participate,
11 and how do we become effectively involved.

12 I don't think it's a result of
13 disasterous happening out there, just people are now
14 having time to take the interest and are taking the
15 time.

16 Q. I appreciate your comment and I may
17 wish to introduce some evidence to differ with that at
18 some time in the future.

19 Okay. Can we turn to the planning team
20 in the -- this is the Red Lake Crown Management Unit,
21 Timber Management Plan excerpts page 107.

22 MR. FREIDIN: What book?

23 MR. AXFORD: I think it's the white.

24 MR. MULTAMAKI: That is Exhibit 814, Mr.
25 Axford.

1 MR. FREIDIN: It's tab 5.

2 MR. AXFORD: I don't have a tab on mine.

3 MR. FREIDIN: Mr. Axford, you weren't
4 here for our tabbing exercise.

5 MR. FREIDIN: Page...?

6 MR. AXFORD: Page 107 to 120.

7 MR. FREIDIN: Thank you.

8 MR. AXFORD: Q. To Mr. Multamaki. Do
9 you have it there?

10 MR. MULTAMAKI: A. Yes.

11 Q. The question here is: Who is the
12 planning team, what is it made up, what qualifications
13 do those individuals have, what puts them on there?

14 A. The planning team is indicated on
15 page 108 at the bottom under (a) list of planning team
16 members.

17 Q. Oh, I am sorry. Maybe can I just
18 change that question a little bit so that we don't get
19 wrapped up in what it says on the pages here.

20 A. Sure.

21 Q. There are some individuals named
22 here--

23 A. That's correct..

24 Q. --that are part of the planning team
25 in the case of the Red Lake Plan. Those individuals

1 are named as certain titles.

2 A. That's correct.

3 Q. For example, I would like to ask you
4 about Barb Larkin.

5 A. Okay.

6 Q. What did she contribute to that
7 particular planning team?

8 A. Under Engineering Services
9 Representative was Barb Larkin. Certainly she had --
10 attended the planning team meetings that were there,
11 she contributed, and I think if you turn to page 113
12 you will see a list of her job duties.

13 Q. I know what the list says, I am just
14 wondering, were her qualifications backed in
15 engineering degree or something?

16 A. I'm honestly not aware of what her
17 qualifications are and I'm not sure that the Ministry
18 normally releases that type of information. I think
19 this has been discussed previously by this panel.
20 Maybe Mr. Kennedy can help you.

21 Q. Is it fair to say that it was a
22 person put on there that had a job of doing what it
23 says here?

24 A. To ensuring that it was done, yes.

25 Q. Okay. Now, in the same manner there

1 are a number of other people on the planning team.
2 Could you indicate to your knowledge, without being --
3 without looking at a CV, if these people have small
4 business experience or economic background?

5 A. Again, I honestly can't answer that
6 because I don't know the entire history of all of these
7 individuals, but it may be that a member or more had
8 that type of experience. I just don't know.

9 Q. But it's fair to say there was
10 nothing in the process that would specifically cause
11 anyone with that background to be placed on that
12 committee?

13 THE CHAIRMAN: You didn't specifically go
14 out to recruit a member of the planning team with a
15 small business or a financial background; is that a
16 fair statement?

17 MR. KENNEDY: I think that's a fair
18 statement.

19 MR. MULTAMAKI: Yes.

20 MR. AXFORD: Q. Okay. Perhaps, would
21 you recall why -- I guess I better do this first. How
22 did these people get appointed?

23 MR. MULTAMAKI: A. These people were
24 appointed by the district manager to ensure that there
25 was complete representation of all disciplines within

1 the Ministry of Natural Resources.

2 Q. Would the district manager have
3 discussed with you the rationale for putting Barb
4 Larkin on there?

5 A. Certainly I think the indication was
6 that the individuals on a planning team were directly
7 responsible for ensuring that their responsibilities
8 were met and we've referred to Ms. Larkin and, in her
9 case, her responsibilities are listed on page 113, she
10 was accountable for, and in fact I guess she was
11 responsible to ensure that those -- that took place.

12 Q. I will ask you again: Did the
13 district manager discuss with you the rationale for
14 putting Barb Larkin on that?

15 A. I honestly don't remember him ever
16 discussing the rationale behind his appointment.

17 Q. That's fair enough. I think we would
18 be bringing some evidence later on in that area.

19 Would you consider -- I have a hard time
20 understanding the length and breadth of this planning
21 team here.

22 The first page, on page 107, we have got
23 four people and yourself on it, yeah, but that's who
24 it's directed to. The memo is directed to some people
25 on a planning team and then over on -- later on I

1 notice a Scott Rivett, and somebody else on this
2 planning team.

3 At what point did the planning team get
4 sort of assembled or is there a core planning team and
5 an expanded one, or how does that work?

6 A. I think the confusion arises from the
7 dates on these. If you look at the date on the memo of
8 page 107 you see it's 1986/09/30 and on page 108, the
9 date is 1986/09/19. In fact, these terms of reference
10 were prepared prior to the memo that you see on page
11 107.

12 It's an organizational problem I guess
13 here. And what happened was that this memo on page 107
14 was sent out to the four members that you see P.
15 Pincombe, G. English, B. Larkin and and D. Pento, after
16 the terms of reference had been prepared.

17 The reason that Mr. Rivett was not
18 included on this is that he was sent a separate memo,
19 as I remember it, because he was with M & DM and, in
20 fact, it was at that point in time a separate ministry.

21 Q. What rationale allowed the separate
22 ministry to be invited to your planning team?

23 A. This is an issue that has been
24 previously discussed and the Ministry of Northern
25 Development and Mines, when the Red Lake Crown Plan was

1 initially -- or the planning exercise was begun was, in
2 fact, a part of MNR and we simply carried Mr. Rivett
3 over to complete the planning exercise because he was
4 an original member as the mining recorder.

5 Q. So, in other words, the selected few
6 on the planning team had to have, as a primary
7 criteria, they had to work for government somewhere?

8 A. No. I think that we have led
9 evidence to indicate that the members of the planning
10 team are MNR staff members, and on an FMA unit they
11 would be company -- the company representative.

12 Q. Oh, so you are saying that Mr. Rivett
13 was an aberration of the norm?

14 A. No. He was in fact -- as I pointed
15 out, originally he was a member of MNR at the start of
16 this planning exercise.

17 Q. Okay, fair enough.

18 A. And this had --

19 Q. So that if he had originally started
20 out as a member of M & DM he wouldn't have been
21 invited?

22 A. No. At this point in time he would
23 be an advisor. Should we -- when we rewrite the plan,
24 I would expect him to be in an advisory capacity.

25 Q. Right. So the planning team in your

1 design can only be in-house, only be?

2 A. I think we have led evidence to that
3 effect.

4 MR. AXFORD: Q. Okay. I am going to
5 posit that point, and because Mr. Sayeau had been
6 labeled as an individual on there, I am going to let
7 him carry the next piece of this.

8 But I think before I leave it, Mr.
9 Multamaki, I ask you again: Is there any
10 socio-economic qualifications required of these
11 individuals on these planning teams?

12 MR. KENNEDY: A. We have led evidence,
13 Mr. Axford, that there are no set qualifications for
14 planning team members.

15 MR. AXFORD: Thank you.

16 CROSS-EXAMINATION BY MR. SAYEAU:

17 Q. Mr. Multamaki, I would like you to
18 help me recall, if you would, my involvement with the
19 Red Lake Crown Management Unit and the preparation of
20 the plan. And I think at about this time was I
21 described as the President of the Chamber of Commerce?

22 MR. MULTAMAKI: A. Yes, at the time that
23 we prepared the terms of reference as given on page 108
24 you were, as I remember it, the President of the
25 Chamber of Commerce for Red Lake.

1 Q. Now, can you -- I would like to talk
2 just a minute about the open house. Can you recall a
3 particular open house that took place at the Polish
4 Hall wherein the Red Lake District Chamber of Commerce
5 showed up with a delegation?

6 A. I am working on this one.

7 Q. Just to help you refresh your
8 memory - and I hope that I am on the right track here -
9 can you recall that the delegation attempted to make an
10 en masse presentation at the open house and that that
11 was refused?

12 A. I vaguely remember that, yes. I'm
13 not -- it has been quite awhile. I think what you are
14 referring to is the original Red Lake Crown Plan prior
15 to Fire No. 7 in 1986. Would that have been February
16 of 1986?

17 Q. To help you go a little bit farther
18 and maybe you can help me at the same time, do you
19 remember a famous meeting that took place in the
20 basement of the Polish Hall?

21 A. Yes, it's ringing bells.

22 Q. Now we are getting someplace. All
23 right. Now, let's go back to that, because as I --
24 help me recall, the delegation showed up at the open
25 house and asked to make a presentation. Do you recall

1 that?

2 A. Yes.

3 Q. Do you recall a response that we
4 received from basically the hosts of the open house?

5 A. As I remember it - and correct me if
6 I'm wrong - it was, there wasn't the opportunity for a
7 formal presentation at the information centre; however,
8 you were invited to discuss the issues, concerns and so
9 on with the staff. But I think at the time you had
10 asked, or the delegation had asked to make a formal
11 presentation, stand-up presentation at the information
12 centre.

13 Q. Thank you. And am I right in saying
14 that the response to that request was that there would
15 be no formal presentations at that place at that time?

16 A. As I remember it, I think that was
17 the case that; however, that they would -- the district
18 manager would entertain formal presentations whenever.

19 Q. And am I right in saying that what
20 then happened was that we then all adjourned to the
21 basement.

22 A. Yes. I don't think I was present at
23 that when you adjourned to the basement, as I remember
24 it.

25 Q. Oh, I thought that you were.

1 A. No, I think that was the district
2 manager; was it not?

3 Q. My recollection is different than
4 yours. In any case, I think the point was that the
5 open house itself was -- how would you characterize the
6 open house in terms of the actual gestalt of the thing;
7 would you describe it as a working kind of open house?

8 A. As I pointed out, my recollection of
9 that is rather shaky, that was I guess three or four
10 years ago. However, I would -- to the best of my
11 recollection, I would say that what took place was an
12 interest group, yourself being a member of that
13 interest group came in, was looking at making a, I
14 guess, presentation which was deemed to be disruptive
15 to the purpose of the information centre.

16 You certainly weren't told that we would
17 not entertain any concern or issue that arose, and the
18 district manager felt that it was, I guess, appropriate
19 to handle that through a separate meeting in the
20 basement.

21 And as I remember it, I think he arranged
22 to have the meeting room in the basement put together
23 so that he could deal with your concerns on a -- in an
24 environment that was appropriate at that time without
25 disrupting the information centre and the ability of

1 the other interest groups and general public to pursue,
2 I guess, their collection of information and discussion
3 with Ministry staff.

4 Q. Mr. Multamaki, do you recall if there
5 were other people there in the hall at the time that
6 were not part of our delegation?

7 A. I don't recall.

8 Q. Isn't it in fact true that there were
9 none; we were the only ones there at the time?

10 A. I honestly --

11 Q. The entire delegation.

12 A. I honestly don't recall, Mr. Sayeau;
13 however, regardless of that fact, it was an open
14 meeting, an information centre and members of the
15 public could have arrived at any time if there were in
16 fact nobody there.

17 Q. And isn't it true that members of the
18 public may or may not have been interested in the point
19 that we were trying to make?

20 A. They may or may not have.

21 Q. That is true then; isn't it?

22 A. I agree.

23 Q. Yeah. The open houses are basically
24 set up in a kind of -- would you describe how an open
25 house actually looks? What does one see as one walks

1 in the door and what does one encounter?

2 A. I guess the description of the last
3 Red Lake Crown or the information centre that took
4 place for this approved plan, there was a receptionist
5 as you came in the door, she handed out -- had a list
6 for people to sign their name and a sign-in sheet, she
7 had comment sheets that were given to the individuals
8 should they desire, in fact it was -- they were offered
9 to each individual as they came in the door.

10 There were some informative panels. It
11 was sort of the first step explaining why you were here
12 and so on, explaining in general the timber management
13 planning process and there were a series of maps which
14 we have presented in the course of our lead evidence;
15 the eligibility map, the preliminary area of concern
16 map, the allocation or areas selected for operations
17 maps, and so on.

18 Q. So would it be fair to say a series
19 of panels or wall mounts around the periphery of the
20 hall with a series of informations underneath them?

21 A. Yes. There was also some written
22 documentation with respect to--

23 Q. Right.

24 A. --objectives and strategies and so on
25 and, as well, there were the members of the planning

1 team there that were available to answer questions.

2 Q. Now, were the members of the planning
3 team, were they identified as being members of a
4 planning team?

5 A. As I remember it, they had name tags
6 that identified them as Ministry members.

7 Q. That's correct. I think, if I recall
8 correctly, most Ministry people that were there had
9 their name tags on.

10 In the name tags themselves though, was
11 there anything to distinguish an employee of the MNR
12 from a member of the planning team; in other words, did
13 the planning team have any kind of identification
14 badges that said: Planning Team Member?

15 A. No. I think what you are referring
16 to is that it had the green Ministry of Natural
17 Resources logo on the button above the name, so...

18 Q. Right.

19 A. But it did not specifically state: I
20 am a planning team member.

21 Q. The point that I am trying to get at,
22 Mr. Multamaki, is: By what method was anybody from the
23 public to know specifically who the planning team
24 members were?

25 A. I guess in my case and --

1 Q. We all knew who you were.

2 A. Sure, and the other planning team
3 members I think followed this -- had been given - and I
4 am not sure that this was formal direction or
5 whatever - but it was a case of you walked up and said:
6 Hello, I am Hartley Multamaki, I am with Ministry of
7 Natural Resources, do you have any questions. That was
8 quite common.

9 Q. Oh, can I stop you just there. There
10 is no question about that. The point of this series of
11 questions is to try to get at the following: How would
12 I as a member of the public walking into your open
13 house know which ear to bend to have an effect?

14 What I am getting at is: I know that if
15 I bend your ear you are the guy that is in charge and
16 maybe what I am saying will get across, but I can go
17 and talk to this chap over here whose responsibility is
18 parks at Pakwash and I am wasting my breath.

19 And so by what means do the members of
20 the public walking in know exactly who to buttonhole
21 here?

22 A. I think the point is that any member
23 of the staff that were approached would immediately
24 direct you to the person most appropriate to handle
25 your issue. If you were talking about a timber

1 management issue, they would direct you to --

2 Q. What you are saying is correct, but
3 did -- that's true, they were directed to the person
4 with the area of expertise, but were they told that
5 that guy's on the planning team?

6 MR. KENNEDY: A. Mr. Sayeau, we could --

7 MR. FREIDIN: Well, Mr. Chairman, if the
8 suggestion is that there should be some means of
9 identification of people on the planning team -- at
10 these open houses as to who is on the planning team,
11 the Ministry wouldn't have any problem agreeing to
12 that.

13 MR. SAYEAU: But it's about four years
14 too late.

15 MR. FREIDIN: Well, we are here.

16 THE CHAIRMAN: Okay. But I think we can
17 establish without a doubt that at that particular open
18 house, with respect to the approved Red Lake Plan,
19 there was no means for the public to identify Ministry
20 staff as members of the planning team formally,
21 although they may have found out during the course of
22 the evening, or may have known from other contacts that
23 a particular person might have been a member of the
24 planning team.

25 But I think your point is well taken.

1 MR. SAYEAU: Q. Okay. Now then, Mr.
2 Multamaki, I want to go on to another point and which
3 is my continued involvement with the Red Lake Crown
4 Management Unit over a number of months.

5 Do you recall that the whole issue of the
6 effect of the cutting operation on the Crown management
7 unit was going to have or had the potential to have a
8 detrimental effect on the tourist industry on that
9 lake? Do you remember that as being one of the issues?

10 MR. MULTAMAKI: A. I remember that as
11 being an issue raised by the Chamber of Commerce at the
12 time and the tourism industry.

13 Q. That's correct.

14 MR. FREIDIN: Which lake are we talking
15 about?

16 MR. SAYEAU: Little Vermilion Lake.

17 Q. Now, the issue -- then you'll agree
18 that we are the ones that raised the issue, not the
19 Ministry?

20 A. I think in all fairness, Mr. Sayeau,
21 that issue had been long standing and the Ministry was
22 well aware of it and it would be unfair to state that
23 yourself or the tourism industry had raised it for the
24 first time during this planning process. Am I not
25 right?

1 Q. Well, am I correct in saying that
2 prior to the active involvement of the Chamber of
3 Commerce the only representations that you had had as
4 to the seriousness of the situation came from the
5 individual operators, the two operators on the lake?

6 A. That may be a fair statement in my
7 case.

8 Q. Okay.

9 A. However, I'm not sure with respect to
10 the district manager--

11 Q. All right.

12 A. --who would have complained.

13 Q. But, in any case, the issue was
14 raised. Now, can you tell us how the presentation that
15 was made during the open house addressed the concern
16 that had -- that particular concern?

17 A. The presentation at the information
18 centre?

19 Q. Yes.

20 A. It in fact had the maps with the
21 appropriate area of concern and we have discussed that
22 in our lead evidence. It's area of concern No. 29.

23 Q. Okay. Can we talk about that for a
24 second, just for one second. The value is identified
25 and the area of concern is outlined; is that correct?

1 A. That's correct.

2 Q. There is an exhibit here which shows
3 the difference between a value and an area of concern
4 and -- ah, this is so light I can't see it. 844 I
5 believe it is.

6 MR. AXFORD: 844A.

7 MR. SAYEAU: 844A.

8 Q. And it's the second page, Mr.
9 Multamaki, if you have got the proper document.

10 MR. MULTAMAKI: A. 844B?

11 Q. 844A it looks like.

12 MR. FREIDIN: I think that would be B,
13 Pat.

14 MR. MULTAMAKI: Okay, that would be the
15 first page.

16 MR. SAYEAU: Then that's B. Right,
17 sorry.

18 Q. Now, as I understand it, the first
19 diagram illustrates what you mean by a value which the
20 three little -- or the four little x's represent a
21 spawning area; is that correct?

22 MR. MULTAMAKI: A. That is one of the
23 values that have been identified.

24 Q. Okay, fair enough. And then the area
25 of concern that relates to that value, I take it to be

1 the 90-metre area of concern which surrounds that
2 waterbody; is that correct?

3 A. That's correct.

4 Q. Okay. So now if -- when you identify
5 a tourist establishment - and let's just for the sake
6 of discussion use Sportsman Lodge - when you identify
7 that as a value, how do you decide what size the area
8 of concern will be and what size was the area of
9 concern?

10 A. The area of concern with respect to
11 the tourism values on Little Vermilion Lake, really we
12 are not only talking Sportsman's Lodge we are also
13 talking Howie Bay Camps which had fly-in outposts on
14 Little Vermilion Lake.

15 The area of concern was identified
16 through the tourism guidelines and through discussions
17 with and meetings with the two affected parties, Mr.
18 Cheney and Mr. Geary, and it was identified as being
19 240 metres in size.

20 Q. And were you aware that the Chamber
21 of Commerce in its various presentations that we made
22 to you disagreed with your analysis of the size which
23 should be attributed to that area of concern? Were you
24 aware that we disagreed?

25 A. With the size of the area of concern?

1 You will have to clarify that in that, did you disagree
2 with the prescription that was developed?

3 Q. No, sorry. Let's go back one step.
4 We agreed on the value -- well, we didn't agree on the
5 value - but the value was identified. You indicated
6 that you felt that an area of concern in the
7 neighbourhood of 240 metres from the lakeshore should
8 be the area of concern.

9 We indicated to you that we felt that to
10 properly protect the tourism values that area of
11 concern should be some other size. Do you recall what
12 it was?

13 A. Yes, I remember those discussions
14 over the years and I think, if you look at the
15 preliminary area of concern map, that was reflected in
16 the fact that the tourism area identified on a
17 preliminary area of concern map, in fact, is
18 considerably larger than the five-year specific area of
19 concern that was used to develop prescriptions within
20 the five-year operational period or whatever within the
21 plan.

22 And if you look, like I said, on the
23 preliminary area of concern map, I think the distance
24 that was shown on there was two kilometres around
25 Little Vermilion Lake where --

1 Q. And what happened to that?

2 A. And that was a result of --

3 Q. What happened to that?

4 A. The discussion -- or what took place
5 within that two kilometres with respect to timber
6 management activities or resource management activities
7 were discussed with the local operators.

8 Q. Can we stop. I don't want to get you
9 going too far here, because the point is --

10 MR. FREIDIN: I am just wondering on that
11 particular question, he was asked what happened to that
12 and I think that in that case maybe Mr. Multamaki
13 should be allowed to finish his answer to what happened
14 to it.

15 MR. SAYEAU: Q. Well, okay. Let's
16 re-establish that it was two kilometres.

17 MR. MULTAMAKI: A. Yes.

18 Q. Two kilometres. Okay. So two
19 kilometres was set up initially?

20 A. Yes, and that was with respect to the
21 tourism values that were identified on the lake.

22 Q. Okay. And then what happened?

23 A. That was for the 20-year, the
24 preliminary area of concerns that were identified. At
25 the five-year level with the specific five -- planning

1 process for areas of concern there were 240 metres
2 identified as the specific area of concern and there
3 were prescriptions developed under the tourism
4 guidelines and through discussions, meetings and so on
5 with the two local tourist operators and the timber
6 industry.

7 In addition to that, road use
8 strategies were developed for all roads within that
9 two-kilometre zone, all secondary roads mapped within
10 the two-kilometre zone, the two-kilometre preliminary
11 area of concern and, in fact, the resulting
12 prescription for those roads or road use strategy was
13 closure -- road enclosures under the Public Lands Act
14 and within the specific areas of concern, 240 metre
15 specific area of concern negotiated -- I guess what we
16 call a negotiated selective harvest cut was developed
17 in the 120-240 metre.

18 Q. Okay. Can we stop there?

19 A. Sure.

20 MR. SAYEAU: Now, can we just, for the
21 benefit of the Board members, can we somehow indicate
22 what is happening at this point by reference to the
23 map? Is that appropriate--

24 THE CHAIRMAN: Yes.

25 MR. SAYEAU: --to get Mr. Multamaki to

1 show you what he's talking about here.

2 THE CHAIRMAN: Yes. We would only ask
3 that when you are doing it to use the words to describe
4 particularly what you are addressing so that it appears
5 in the transcript in that fashion.

6 MR. COSMAN: I wonder if it could be
7 turned so I can see it.

8 MR. SAYEAU: Just a shade so that I can
9 see, Mr. Axford.

10 MR. AXFORD: Can somebody pick a spot.

11 MR. SAYEAU: That is not bad, but I don't
12 know whether the Board members can see it. Mr. Martel?

13 MR. AXFORD: There is a little larger
14 version.

15 MR. FREIDIN: Well, perhaps Mr. Multamaki
16 should choose the map that he feels the best to
17 demonstrate what happened.

18 MR. SAYEAU: Yes.

19 Q. Well, Mr. Multamaki, first of all --

20 THE CHAIRMAN: Just a minute.

21 MR. SAYEAU: Can we get people oriented
22 by this small --

23 THE CHAIRMAN: Mr. Sayeau, let's
24 ascertain which map we are going to use. Is that the
25 map you want to use?

1 MR. SAYEAU: I thought maybe what we
2 might do is use the smaller scale if Mr. Multamaki were
3 to kind of orient the Town of Red Lake - Mr. Multamaki,
4 if you would - and then the overall area, and then we
5 will use the larger scale map.

6 THE CHAIRMAN: Very well.

7 MR. MULTAMAKI: We have seen these maps
8 in both lead evidence, I think they were presented
9 throughout cross. What you are looking at here is --

10 MR. SAYEAU: Nobody can -- okay.

11 MR. FREIDIN: Exhibit what?

12 MR. MULTAMAKI: It's Exhibit No. 836. It
13 is the preliminary area of concern map which I briefly
14 discussed a few minutes ago.

15 The Town of Red Lake is on the south
16 shore of Red Lake in this area. (indicating)

17 Little Vermilion Lake is immediately
18 north of the Town of Red Lake, approximately 15 or 20
19 miles north of Red Lake. It is shown in dark blue
20 here. (indicating)

21 It contains Sportsman Lodge which is a
22 fly-in main base lodge and Howie Bay Camps which has
23 two outpost cabins on the south part of the lake.

24 Inbetween Red Lake and Little Vermilion
25 Lake is the Pine Ridge Road which is a primary access

1 road which accesses the western part of the Red Lake
2 Crown.

3 MR. SAYEAU: Q. Right. And does the
4 Pine Ridge Road also cross Little Vermilion River?

5 MR. MULTAMAKI: A. It crosses the
6 Chukuni River.

7 Q. The Chukuni River?

8 A. Right.

9 Q. Okay. Then would you go on from
10 there then?

11 MR. AXFORD: You want the big one?

12 MR. SAYEAU: I think you should use that
13 larger scale, Mr. Multamaki.

14 MR. MULTAMAKI: Sure.

15 MR. SAYEAU: Q. Okay. Would you go then
16 ahead with the areas of concern and how they were
17 addressed?

18 MR. FREIDIN: Which exhibit, Mr.
19 Multamaki?

20 MR. MULTAMAKI: Thank you, Mr. Freidin.
21 Exhibit 843. Again, this is the northern -- this is
22 base map 513934, it's the north half of Little
23 Vermilion Lake. It contains Sportsman's Lodge in black
24 on the west side of the lake. It contains -- this is
25 the allocation and roads map for the five-year part of

1 the plan, 1986-1991.

2 In yellow and green, that's colour by
3 working groups, are the actual allocations. The red
4 are road corridors, secondary road corridors and in
5 orange you see the area of concern delineated.

6 When you look at these areas of concern
7 there is a solid orange line which denotes the
8 240-metre mark and there is a dashed line halfway
9 between the shoreline of Little Vermilion Lake and the
10 solid line which is at the 120-metre mark.

11 MR. SAYEAU: Q. Okay. Can we stop there
12 then. So in that particular area we have identified
13 the yellow is timber that should be harvested or could
14 be harvested?

15 MR. MULTAMAKI: A. It has been selected
16 for harvest.

17 Q. Selected for harvest. It has been --
18 am I correct there has been a road structure to access
19 it identified?

20 A. That's correct.

21 Q. Right. And we have -- from the two
22 kilometres that we talked about earlier, we have now a
23 240, if I can -- is it correct to describe that as a
24 240-metre buffer zone between the lakeshore and as far
25 as cutting would occur?

1 Is that --

2 A. Well, we don't use the term buffer.

3 It's a 240-metre area -- specific area of concern.

4 Q. All right. But in the minds of the
5 people who are trying to preserve the wilderness
6 atmosphere of that lake, they would probably
7 characterize it as a buffer zone in their mind; is that
8 a fairer statement?

9 A. I can't speak for what is in their
10 minds, but --

11 Q. Well, you have talked to them enough.

12 A. Yeah. I would expect they would look
13 at it in that fashion.

14 Q. All right. So now we have a
15 240-metre buffer zone or area of concern and then
16 halfway to that we have a 120-metre line and what is
17 the purpose of that 120-metre line now?

18 A. It simply denotes the two, I guess,
19 classifications within the 240-metre area of concern.

20 For example, through discussions,
21 meetings and so on with the tourist operators on the
22 Little Vermilion Lake it was decided that we would
23 propose a no-cut reserve up to the 120-metre mark
24 within the area of concern, and then from the 121-metre
25 to 240-metre mark we would propose a prescription that

1 was for negotiated selective harvesting.

2 Q. Now, what does that mean?

3 A. That means -- I think we have got the
4 wording exactly on that.

5 Q. In other words, you have got a
6 definition that follows those words?

7 A. Yeah. It was clearly defined for
8 both the tourist operators, the Ministry, and the
9 timber operator that was involved in negotiating or
10 involved in the discussions that took place with
11 respect to that area of concern.

12 And I guess to capsulize it, it basically
13 meant that the Ministry, the timber company and the
14 tourist -- the affected tourist operators would get
15 together and decide in fact --

16 Q. How to handle that?

17 A. No, which area within that 120 metres
18 to 240 metres, which trees or which groups of trees
19 could be removed with little, or any impact on the
20 operation.

21 Q. All right. Now, is it fair to go
22 from the planning process, as you have outlined it now,
23 to the actual operation of what happened; is that a
24 fair step now to make next, because what I want to ask
25 you next is: Did that negotiation occur?

1 A. Yes, it did.

2 Q. And what was the result of the
3 negotiation? What did everybody agree to?

4 A. It selected areas within the 120 to
5 240-metre area would be removed.

6 Q. They all agreed to that?

7 A. That is my understanding, yes.

8 Q. And who was present at the meeting
9 where that was negotiated? I'm sorry, maybe you would
10 feel --

11 A. No. I was going to say it is
12 documented in fact in a letter that was written to both
13 the timber operator and the two tourist operators, the
14 results of the meeting that took place to negotiate
15 which area.

16 Q. And was the Chamber of Commerce part
17 of that negotiation process?

18 A. No, they were not.

19 Q. They had indicated -- they had held
20 themselves out to be an interested party, they had held
21 themselves out to be concerned about the value. Were
22 they part of that negotiation process?

23 A. The negotiation process that took
24 place after the planning --

25 Q. No, no. Yes, right, to decide what

1 would happen there?

2 A. No, the negotiations were between the
3 affected tourist operators and the affected timber
4 operator and the Ministry of Natural Resources.

5 Q. So is it fair to say that after
6 indicating through their participation that the Chamber
7 of Commerce was concerned about the value, recognized
8 the value, had some difficulties with the area of
9 study -- or, excuse me, with the area of concern, had
10 expressed those difficulties with the size of the area
11 of concern; even after that had all been done,
12 nevertheless in the last analysis, when it came time to
13 negotiate what would happen between the 120-metre mark
14 and the 240-metre mark, they were excluded from the
15 process. Is that a fair statement?

16 A. No. As I remember, the discussions
17 that took place over a number of years included both
18 the Chamber of Commerce and Natural Resources. You
19 were concerned with the tourism values that were on
20 Little Vermilion Lake and specifically the two tourist
21 operators that were involved in operations on that
22 lake.

23 Q. That's correct. And what were we
24 asking as the remedy for our concern?

25 A. As the remedy?

1 Q. Yeah.

2 A. As I understand it, provide
3 protection that was suitable or acceptable to those
4 tourist operators.

5 Q. No, that is not correct. What were
6 we asking for as the remedy? Can I help you?

7 A. You sure can.

8 Q. Were we not asking for the two
9 kilometre zone to start with?

10 A. I think that was your initial --

11 Q. Right, that was the initial position.

12 MR. FREIDIN: Let him answer the
13 question.

14 MR. MULTAMAKI: The initial position that
15 Chamber of Commerce started with several years ago was
16 two kilometres of no-cut.

17 MR. SAYEAU: Yeah.

18 MR. MULTAMAKI: That's right.

19 MR. SAYEAU: Q. All right. So now we
20 have -- do you agree that we have gone to the point now
21 where the Chamber of Commerce is excluded from the
22 process of deciding what happens on that area and that
23 the negotiation actually takes place between the
24 Ministry of Natural Resources, the cutters and the two
25 tourist operators?

1 MR. MULTAMAKI: A. I guess I would say
2 that the discussions, meetings that we had a certain
3 amount of negotiation took place with the two affected
4 parties being the tourist operators and the timber
5 operator.

6 THE CHAIRMAN: Mr. Multamaki, did the two
7 tourist operators also want the two kilometre zone
8 preserved?

9 MR. MULTAMAKI: Their initial starting
10 position was, yes, they did want a two kilometre no
11 activities; and through meetings, discussions and so on
12 the final resolution was as you see it in the plan.

13 THE CHAIRMAN: But did they agree with
14 the final resolution?

15 MR. MULTAMAKI: Yes, they did.

16 THE CHAIRMAN: And so they reduced their
17 demands down from two kilometres down to 240 with the
18 two zones; 0-120 and 121-240 and then also agreed with
19 how the actual cutting would take place in the second
20 zone?

21 MR. MULTAMAKI: That's correct.

22 MR. KENNEDY: Mr. Chairman --

23 MR. SAYEAU: Now, can I introduce another
24 point at this point, Mr. Chairman?

25 MR. KENNEDY: Mr. Chairman, I was going

1 to advise you that the documentation that supports what
2 Mr. Multamaki has just referred to can --

3 MR. SAYEAU: We really don't need that,
4 Mr. Chairman. What I am trying to --

5 THE CHAIRMAN: Just a moment. Maybe you
6 don't--

7 MR. SAYEAU: Okay, fair enough.

8 THE CHAIRMAN: --perhaps the Board would
9 like to verify that at its leisure, and this is
10 documentation that is in front of us.

11 Mr. Kennedy, where is that documented?

12 MR. KENNEDY: It can be found in Book 5,
13 and there is a series of documentation starting, I
14 would suggest, at page 94, runs through to page 106,
15 and specifically the minutes of meetings that were held
16 between the tourist outfitters, the industry
17 representatives who were involved and members of the
18 MNR staff can be found on pages 97 through to 100.

19 And then there is a subsequent series of
20 letters where Mr. Multamaki advised the participants at
21 that meeting of the minutes and advised them to contact
22 the office if there had been any corrections or
23 problems to the resolution of those minutes.

24 THE CHAIRMAN: Okay. Mr. Sayeau, were
25 those two tourist operators members of the Chamber of

1 Commerce?

2 MR. SAYEAU: Yes, they were -- oh, excuse
3 me. I can say one of them was, I am not sure about the
4 other one.

5 MR. KENNEDY: Mr. Geary I believe?

6 MR. MARTEL: I would like to ask a
7 question though. This morning we heard Ms.
8 Bair-Muirhead bring up a number of points and the
9 Ministry said the onus was on the native groups to show
10 an interest and they would get communication, they
11 would get a variety of things.

12 If the Chamber of Commerce showed an
13 interest the question remains: Why were they excluded
14 from the final disposition of this matter?

15 MR. SAYEAU: Precisely. Now, further to
16 that, if I might --

17 MR. MARTEL: If I could get an answer.

18 MR. MULTAMAKI: They were not excluded
19 from it. They had the formal opportunities, they were
20 aware of those formal opportunities, they were on the
21 mailing list, they had been notified of the preparation
22 of the plan, they were notified of the information
23 centre, it was in Downtown Red Lake, they had the
24 opportunity to come in and inspect this, as well at
25 least one of the tourist operators - as you have

1 pointed out, Mr. Sayeau - was a member of the Chamber
2 of Commerce.

3 Certainly I would expect that you would
4 have been talking to him or --

5 MR. SAYEAU: Q. Mr. Multamaki, who
6 speaks for the Chamber of Commerce, the president or
7 one member?

8 MR. MULTAMAKI: A. I guess I'm saying
9 that the flow of information --

10 Q. I am not talking about the flow of
11 information.

12 MR. MARTEL: If I could go back to the
13 question I raised though. I mean, surely if there
14 is -- I want to know why we deviate?

15 This morning we were told about the
16 natives and that if they wanted involvement they would
17 have to ask for and the Ministry wouldn't make the
18 stuff available in their language.

19 When you have a group who shows an
20 interest, are you saying -- I think I hear you saying
21 that if there is -- once you have gone through the open
22 house, if there is no agreement, that the final
23 decision rests with MNR.

24 And, if that is the case, then I think
25 that is what you should indicate; that you had gone

1 through all the process and MNR had to resolve it, and
2 this is the way they resolved it. If that is the way
3 it occurred, fine.

4 MR. MULTAMAKI: I think it would be fair
5 to say that up until today the Chamber of Commerce -
6 and correct me I'm wrong, maybe Mr. Groves can help me
7 out - the Chamber of Commerce has never indicated to us
8 that they were unhappy with the resolution of this
9 issue. This took place, what, a year and a half ago;
10 am I correct in that?

11 MR. SAYEAU: Just a minute. We are not
12 talking about the resolution, we are talking about the
13 process by which the resolution came about.

14 THE CHAIRMAN: Well, Mr. Sayeau, the
15 Board wants to get straight in its own mind--

16 MR. SAYEAU: Yes.

17 THE CHAIRMAN: --what was involved with
18 that process.

19 As we understand it - and correct us if
20 we are wrong - that after the two kilometre preliminary
21 area of concern zone was identified, and that position
22 was known to the Ministry that that is what the Chamber
23 of Commerce wanted as a no-cut zone and also at that
24 stage what the two tourist operators wanted as a no-cut
25 zone, then the process involved further consultation

1 and further meetings, both formal and informal, where
2 the resolution of how large that zone would ultimately
3 be was brought down to 240 metres. That was the
4 decision?

5 MR. MULTAMAKI: That's correct.

6 THE CHAIRMAN: And the decision was made
7 ultimately by who, the district manager of MNR?

8 MR. MULTAMAKI: The decision was -- yes,
9 he was the individual that recommended the plan for
10 approval and that is where the decision was formally
11 finalized I guess.

12 THE CHAIRMAN: And documented--

13 MR. MULTAMAKI: And documented.

14 THE CHAIRMAN: --in the supplementary
15 documentation as to why the two kilometre zone was not
16 chosen, was not the ultimate disposition; is that
17 correct?

18 MR. MULTAMAKI: That's correct.

19 MR. KENNEDY: And, Mr. Chairman, that
20 decision was made with the involvement of those parties
21 who were directly affected by that change.

22 MR. SAYEAU: With all due respect, Mr.
23 Chairman, I have much to add to that.

24 Q. Is it fair, Mr. Multamaki, to say
25 that the Chamber of Commerce made numerous

1 representations to you indicating that we did not feel
2 that those two operators owned that lake, the decision
3 was not theirs; the decision was legitimately -- our
4 position was that the decision was legitimately a
5 community decision and as speaking for only one group
6 within the community; i.e., the business community, we
7 felt we had a stake in this decision. Is that fair to
8 describe our position?

9 MR. MULTAMAKI: A. No, I wouldn't say
10 that. To the best of my recollection in following the
11 representation that you made to the Ministry -- or the
12 Chamber of Commerce made to the Ministry of Natural
13 Resources, it was to provide protection to the tourist
14 operators on that lake.

15 Q. Mr. Multamaki, I submit to you that
16 that was not our position, that was the position which
17 you were trying to get us to take and we never did cave
18 in on that. I submit that to you.

19 A. That is not --

20 THE CHAIRMAN: Well, Mr. Sayeau, without
21 debating whether or not that was your position--

22 MR. SAYEAU: Yeah.

23 THE CHAIRMAN: --you are indicating that
24 your position was made known to the Ministry.

25 MR. SAYEAU: That's right.

1 THE CHAIRMAN: And you have taken and
2 indicated to the Board what that position was. The
3 Ministry, on the other hand, although it may not have
4 felt that was the position you were taking,
5 nevertheless did have the opportunity to receive your
6 communication on that--

7 MR. SAYEAU: That's right.

8 THE CHAIRMAN: --in the term of a
9 personal representation or submission or letters or
10 whatever.

11 MR. SAYEAU: Briefs.

12 THE CHAIRMAN: In briefs, et cetera?

13 MR. SAYEAU: Yes.

14 THE CHAIRMAN: Okay. Now, ultimately the
15 Ministry and the planning team in that Red Lake
16 planning exercise did not agree with that submission.

17 MR. SAYEAU: That's correct.

18 THE CHAIRMAN: Okay. So that is the
19 bottom line.

20 MR. SAYEAU: That is the bottom line.

21 THE CHAIRMAN: And at this stage we
22 assume that you still don't agree with what the
23 decision was, but in dealing with the process, how do
24 you get around the fact that certain parties take
25 positions that at the end of the day may not be upheld?

1 MR. SAYEAU: Yes.

2 THE CHAIRMAN: I mean, everybody which
3 may put forward different positions may not see their
4 particular position adopted at the end of the process.

5 MR. SAYEAU: I have no problem with
6 losing the battle, I just have problems with being told
7 that I agreed to the solution.

8 THE CHAIRMAN: Okay. Well, the Board --

9 MR. SAYEAU: Or that I was part of the
10 process which arrived at the solution.

11 THE CHAIRMAN: Well, can you deny that
12 you are part of the process that arrived at the
13 solution totally when your point of view was before the
14 planning teams--

15 MR. SAYEAU: That's fair.

16 THE CHAIRMAN: --and they just, for
17 whatever reason, good or bad--

18 MR. SAYEAU: Yes.

19 THE CHAIRMAN: --didn't agree with it.

20 MR. SAYEAU: True.

21 MR. FREIDIN: Mr. Chairman --

22 THE CHAIRMAN: Well, that is not quite
23 the same as being totally excluded from the process, in
24 the sense that the process involved going from two
25 kilometres down to 240 metres.

1 MR. SAYEAU: Okay.

2 THE CHAIRMAN: And if you were involved
3 up to that stage--

4 MR. SAYEAU: Mm-hmm.

5 THE CHAIRMAN: --by putting forward your
6 group's point of view, the fact that it didn't remain
7 at two kilometres doesn't mean necessarily; does it,
8 that you had nothing and no input into the process?

9 MR. SAYEAU: I think it gets a bit more
10 complicated because -- well, I think...

11 THE CHAIRMAN: They didn't realize your
12 position but they knew perfectly well what your
13 position was.

14 MR. SAYEAU: And they knew that we wanted
15 to be part of the solution.

16 MR. FREIDIN: Mr. Chairman, if I might
17 just interject now and go on the record to indicate - I
18 would hope through you to Mr. Sayeau, perhaps to the
19 other Board members - the statements by Mr. Sayeau as
20 to what he says occurred is not evidence, and that for
21 the Board to come to any conclusion that what actually
22 occurred in this fact situation was what Mr. Sayeau
23 says and was not what Mr. Multamaki says, will require
24 witnesses to take the stand and testify.

25 THE CHAIRMAN: Subject to

1 cross-examination, et cetera.

2 MR. FREIDIN: Yes.

3 THE CHAIRMAN: We understand that, Mr.
4 Freidin.

5 MR. FREIDIN: I just wanted to be clear.

6 THE CHAIRMAN: And it's duly noted on the
7 record. I think what we are trying to get at here is
8 Mr. Sayeau's concerns deal with the process and the
9 opportunities that his group may or may not have had to
10 put forward their point of view, and we want to put
11 that in the context of when the decision was made
12 vis-a-vis your concerns and so we are at least up, I
13 think, to the stage of going from two kilometres down
14 to 240.

15 MR. SAYEAU: Right.

16 THE CHAIRMAN: And the Ministry or the
17 planning team did not abide or adopt your position at
18 that stage. Now, to go to the next stage of going from
19 240 down to the two zones of--

20 MR. SAYEAU: 120--

21 THE CHAIRMAN: --of 120 and what happens
22 between 120 and 240, your concern is that you were
23 excluded from having any input into what happens in the
24 zone from 120-240. I assume that you are happy with
25 what happened between 0 and 120?

1 MR. SAYEAU: Well, we haven't got to that
2 yet.

3 THE CHAIRMAN: Well, okay. Okay. But in
4 any event, there was no cutting allowed in that zone,
5 as we understand it.

6 MR. SAYEAU: You shouldn't assume that.

7 THE CHAIRMAN: Well, okay. That is the
8 evidence that has been put forward to the Board at
9 least at this stage of the game, that there was no
10 cutting allowed in the 0-120.

11 Is that correct, Mr. Multamaki?

12 MR. MULTAMAKI: That's correct.

13 THE CHAIRMAN: Okay.

14 MR. SAYEAU: Q. Okay. So we are back at
15 the point where, because of a process, it was agreed to
16 cut between the 240 and the 120; is that correct?

17 MR. MULTAMAKI: A. Agreed to no-cut
18 between the 0 and 120, 121-240 was negotiated selective
19 harvest.

20 Q. Okay. Now, can you tell us then what
21 happened on the ground? At some point - and I don't
22 know whether this is the particular area - the 0-120
23 became compromised. Can you tell us where that
24 happened?

25 A. It's my understanding that a number

1 of areas not on this map had been harvested, a number
2 of blocks -- in fact some of these areas as well had
3 been harvested areas on the map that is just south of
4 there.

5 Q. Could we get that map?

6 A. Sure.

7 MR. SAYEAU: Okay. Mr. Chairman, all I
8 am really trying to get at is that there is a
9 difference between what the process says is supposed to
10 happen and what actually happens.

11 THE CHAIRMAN: Well, this is a different
12 aspect, this is a totally different aspect almost in
13 terms of compliance monitoring with what the plan said
14 should happen and what may not have happened in the
15 field, and that certainly is a concern of this Board.

16 Compliance monitoring is going to be the
17 whole subject of the next panel of witnesses, but to
18 the extent that Mr. Multamaki in this panel knows what
19 occurred, I think it's fair for you to question him on
20 that.

21 MR. SAYEAU: Thank you very much.

22 Q. So, Mr. Multamaki, if you can just
23 indicate to us where it was that the 120-metre zone was
24 compromised?

25 MR. MULTAMAKI: A. To the best of my

1 recollection, perhaps I should just set it. This is
2 south --

3 MR. FREIDIN: What exhibit are we looking
4 at?

5 MR. MULTAMAKI: Exhibit 845, it's base
6 map 512934. It's the south part of Little Vermilion
7 Lake, little Vermilion Lake being represented by the
8 large white area here. (indicating) The Township of
9 Red Lake is down below the area. (indicating) This is
10 the Pine Ridge Road, as you see here in this open white
11 line. (indicating)

12 The block in question that Mr. Sayeau was
13 referring to is this block right here (indicating)
14 which is block No. 16. There is a small bay within the
15 lake with an alder swale that runs down towards the
16 Pine Ridge Road on the southwest corner.

17 I think the issue you are referring to
18 within the 120 metre was there was a small area within
19 that 120 metre that was in fact harvested as a result
20 of a line-marking exercise that took place. The patch
21 was, as I remember, and I personally inspected it,
22 about the size of this room.

23 MR. SAYEAU: Q. So in that particular
24 area the forest was cut to the lake's edge; is that
25 correct?

1 MR. MULTAMAKI: A. Not completely to the
2 lake's edge but close.

3 Q. Okay. All right. And were you aware
4 of --

5 THE CHAIRMAN: Just one second, Mr.
6 Multamaki. That would have been against what the plan
7 authorized in terms of cutting; is that correct?

8 MR. MULTAMAKI: That's correct, that was
9 an unauthorized cut.

10 THE CHAIRMAN: That was an infringement
11 of the actual cutting authority or licence?

12 MR. MULTAMAKI: Yes. It in fact was an
13 unauthorized harvest within the 120-metre reserve;
14 however, there were extenuating circumstances on that.

15 THE CHAIRMAN: Well, as to the penalty
16 that might have been exacted for that, that is a
17 different matter, but at least we have ascertained it
18 was unauthorized in accordance with the plan.

19 MR. MULTAMAKI: Yes, it wasn't in
20 agreement with the plan.

21 MR. SAYEAU: Q. And were you aware that
22 during this entire process that that was one of the
23 concerns that we had constantly raised?

24 MR. MULTAMAKI: A. It was a concern that
25 was raised, yes.

1 Q. That we were afraid of errors and
2 mistakes?

3 A. Yes, that had come up.

4 Q. Okay. Thanks very much, Mr.
5 Multamaki. I think that -- well, maybe there is only
6 one place to go from here, and that is that in that
7 particular area I believe there were other methods, if
8 I can correct this.

9 What other methods had you used to
10 protect that lake other than the no-cut -- 120-metre
11 no-cut?

12 A. Yeah. One of the primary concerns
13 that was raised was access to the lake because of the
14 fly-in nature. We had in fact established closed roads
15 that were to be used for logging purposes only, in
16 fact, they were closed.

17 We also had instituted or promoted rapid
18 regeneration of the resulting cut-over through
19 artificial regeneration techniques, specifically tree
20 planting, also site preparation of those roads after --
21 of the roads that were in the harvest area after
22 operations had taken place and so on.

23 Q. Okay. So there were some road
24 closures that were part of the prescription; is that
25 correct?

1 A. That's correct.

2 Q. Okay. So that in the -- there was an
3 error here, but the error was kind of backdropped, if I
4 can put it that way, by another prescription which was
5 a road closure?

6 A. Yes, that's correct.

7 Q. Fair characterization. And are you
8 aware that our entire presentations to you during this
9 period of time was that both methods should be used to
10 ensure the protection of the lake?

11 A. I think it would be fair to say, Mr.
12 Sayeau, that we would look at a variety of methods for
13 protecting identified values and not limit it to just
14 those two.

15 Q. That's correct. But am I not correct
16 in stating that that particular road closure was one of
17 the first in the Red Lake District?

18 A. Yes, one of the first. I am not sure
19 whether it was the first, but certainly it was one of
20 the earlier road closures.

21 Q. And the whole rationale behind that
22 was the protection of the tourism values; is that
23 correct?

24 A. That's correct, that is a fair
25 statement.

1 Q. And, again, it was the community
2 through the Chamber of Commerce that had identified
3 those values as being important values to be preserved
4 if the economic base of the community was to be
5 preserved; is that correct?

6 A. Certainly you made us -- you, I
7 guess, agreed with the tourist operators who had also
8 made the same point. As to who was first to identify
9 it, I am not sure.

10 MR. KENNEDY: I believe we've led
11 evidence on the fact that that concern had been brought
12 to our attention during the West Patricia planning
13 exercise, Mr. Chairman.

14 We have submitted one exhibit to the
15 effect that it was documented as early as 1982, I
16 believe in part of the West Patricia background
17 information.

18 MR. SAYEAU: Q. Now, Mr. Multamaki,
19 during this period of time that this was in the
20 planning process, how would you describe the Chamber of
21 Commerce involvement in the process; would you say that
22 our involvement was as a partner in the process?

23 MR. MULTAMAKI: A. Quite vocal as I
24 remember it. Certainly I don't think there was any
25 question that you made your views quite plain to both

1 the Ministry of Natural Resources and various other
2 agencies.

3 As to a partner, no. I would see it more
4 as an advisor that in fact -- and that is the way we
5 have shown it on the list of resource personnel in the
6 terms of reference, that in fact you personally as a
7 representative of the Chamber of Commerce were
8 identified as a resource person or what we would term
9 an advisor to the planning team.

10 Q. I wasn't aware of that, by the way,
11 until I read this last night.

12 A. We recognize that, that there was no
13 formal notification of that, but you have been
14 identified as a resource person that we could go to for
15 this sort of thing.

16 Q. Now, I was wondering if you wouldn't
17 be more comfortable characterizing my participation as
18 an antagonist or an adversary rather than as a partner?

19 A. That still doesn't invalidate the
20 points that you raise--

21 Q. Of course not.

22 A. --or the issues that are identified.
23 In fact, quite often issues and concerns are raised by
24 people, as you have termed it, that are antagonistic to
25 timber management and other resource management

1 programs.

2 Q. It's just -- I think that we just get
3 tired of that kind of a process.

4 MR. SAYEAU: All right. I just wanted to
5 have a second if I could, Mr. Chairman, to collect my
6 thoughts.

7 THE CHAIRMAN: Well, we were going to
8 suggest - and, again, we want to sort of get some idea
9 of where you are in your examination - a very short
10 lunch break and then we would be prepared to sit to
11 probably as late as about three or 3:15, if that is
12 acceptable.

13 MR. SAYEAU: I think, Mr. Chairman, if
14 you could kind of give us a nod at three o'clock, we
15 could wind up in five minutes and then that would meet
16 the 3:15 deadline.

17 THE CHAIRMAN: Okay. And we are
18 contemplating a 45-minute break, but we could cut that
19 even down if necessary to a half hour. We want to try
20 and allow you the opportunity, if we can, to finish
21 today without necessitating your having to return next
22 week.

23 MR. SAYEAU: Thank you very much.

24 THE CHAIRMAN: Do you think you could get
25 away with a 45-minute break for lunch, or would you

1 prefer the one half hour break?

2 MR. SAYEAU: I would prefer the half
3 hour.

4 THE CHAIRMAN: All right. We will be
5 back here then in one half hour.

6 ---Discussion off the record

7 MR. FREIDIN: Mr. Chairman, I was just
8 asking Mr. --

9 THE CHAIRMAN: Can we compromise and say
10 that we will be back at quarter to two.

11 Very well. Thank you.

12 ---Luncheon recess taken at 1:10 p.m.

13 ---On resuming at 1:50 p.m.

14 THE CHAIRMAN: Thank you. Be seated,
15 please.

16 Mr. Sayeau?

17 MR. SAYEAU: Go ahead?

18 THE CHAIRMAN: Yes.

19 MR. SAYEAU: Mr. Chairman, I just wanted
20 to spend a few more minutes on that --

21 THE CHAIRMAN: I would like to ask, if we
22 might, to have these maps moved over this way so that
23 the court reporters are not blocked in terms of their
24 vision as to who is speaking.

25 They are having a little difficulty

1 keeping up on the transcripts because they can't see
2 the person who is doing the talking.

3 MR. SAYEAU: I think we are pretty well
4 finished with them. I just want to ask a few more
5 questions and then get on to something else.

6 MR. AXFORD: Where do you want them?

7 THE CHAIRMAN: If we could do it down at
8 this end a little bit.

9 ---Discussion off the record

10 THE CHAIRMAN: I think any members of the
11 audience can just move around the room, if they have
12 to, to see the maps.

13 Mr. Multamaki, maybe you should come
14 around the front here so that you can take a good look
15 at the maps as well.

16 MR. SAYEAU: Okay.

17 Q. Mr. Multamaki, just if I could a
18 couple of other -- a few more questions before we get
19 off these. First of all, going back to the discussions
20 which ensued between the -- as to how the 200 -- the
21 0-240 metre area of concern would be handled.

22 Can you think of any reason that those
23 two operators would have changed their stand to a
24 lesser standard than that which was being supported by
25 the larger body; i.e., the Chamber of Commerce?

1 Was there any reason for them to change
2 their stand?

3 MR. MULTAMAKI: A. Yes. It's my
4 understanding that the joint meetings and discussions
5 that took place between Natural Resources, the timber
6 operator and the tourist operators had a great deal to
7 do with, I guess, gaining an understanding -- or at
8 least gaining an understanding on the tourist
9 operators' part of the needs of the local timber
10 operator.

11 And some of the key issues that were
12 there were the fact that those blocks that were
13 adjacent to Little Vermilion Lake contained a large
14 amount of saw log material in them. The operator that
15 was involved in -- the timber operator that was
16 involved in harvesting in the area and had the licence
17 in the area was Skookum Bay Logging Limited which, of
18 course, you are aware of.

19 They own the -- for the Board's sake, I
20 guess, they own the local saw mill in Red Lake which is
21 I guess the only real industry in Downtown Red Lake,
22 and that licence had been in effect on Little Vermilion
23 Lake for a great number of years. In fact, it had
24 been -- the lake itself had been used for timber
25 operations in the past and it had been a long standing

1 area of timber supply for the local saw mill.

2 So I think what really took place there
3 was that the tourist operators and the timber operators
4 were brought together, they gained a better
5 understanding of the needs of each other and, in fact,
6 came to an agreement as to what their requirements were
7 with respect to protection and so on.

8 Q. Right. And did the logs or the
9 timber that was in that 120-metre zone there, between
10 120 and 240, did that make the difference?

11 Did the logs in that area make the
12 difference between whether Skookum Bay Logging survived
13 or didn't survive? I mean, was that -- were their
14 needs that severe that those logs had to be harvested?

15 A. I guess it was our estimation that in
16 the short run perhaps we could have gone someplace else
17 and got the timber that the saw mill required.

18 However, the timber that would have been
19 put into, say, a total no-cut reserve or into a reserve
20 would have been -- essentially would never have reached
21 the saw mill at any time, we would not have gone back
22 for it and so on. And it was our, I guess, judgment
23 that with -- and, you know, that was in consultation
24 with the tourist operators and the timber operators,
25 that there wasn't a requirement to leave that saw log

1 quality material in the 121-240.

2 The tourist operators indicated that they
3 were satisfied with the removal of that material, that
4 in fact their operations wouldn't be seriously impacted
5 by the timber operator taking that material and it made
6 the timber operation that much more viable.

7 Q. Now, do you think, in your opinion,
8 that there were any other pressures on the tourist
9 operators to compromise their stand, to acquiesce? Do
10 you think there were any other pressures of any nature
11 whatsoever, including anything that might have happened
12 in any of the formal or informal meetings?

13 A. I'd be speculating, but I don't think
14 there was any pressure from the -- or, in fact, there
15 wasn't any pressure from the Ministry's side to have
16 them change their stand. See, it was simply a case of
17 education on our part.

18 Q. Okay. Are you aware of a meeting
19 which took place between the Chamber of Commerce, the
20 tourist operator, members thereof, and the district
21 manager and the regional manager in the Ukranian church
22 hall in Red Lake during this process?

23 Were you party to that meeting? There
24 was only one ever held and it was at the Ukranian
25 church hall basement. Were you party to that meeting?

1 A. Not that I remember. I don't
2 remember being at that meeting, Mr. Sayeau.

3 Q. All right. Then, I can't continue
4 this line of discussion any farther. Perhaps we can
5 come back to it at a later time.

6 Why do you think that the local Chamber
7 of Commerce which -- by the way, would you agree that
8 this was kind of a cause celebre in the community at
9 that time and that the Chamber was quite vociferous?

10 A. Well, those are your words. I would
11 agree that to some interested parties it was of serious
12 concern, particularly the timber --

13 Q. Why do you think that we were so
14 insistent?

15 MR. FREIDIN: No, no, he didn't say that
16 you were insistent, he was saying that the timber
17 operators -- it was a serious concern to some and he
18 was starting to say with the timber operators, and he
19 wasn't quite finished.

20 MR. MULTAMAKI: I was going to say that
21 it seemed it was of serious concern to the timber
22 operators or the timber operator that had the licence
23 for the area, the two tourist operators, the Chamber of
24 Commerce, and I think that covers the interested
25 parties with respect to Little Vermilion Lake, and the

1 Ministry of course.

2 MR. SAYEAU: Q. What I am getting at is:
3 Why do you think that there was so much concern?

4 Do you think that the concern resulted
5 from the fact that we were worried about the way the
6 values were being evaluated by, what it turns out to
7 be, a planning team - we weren't aware that there was a
8 planning team - but do you think it was because we were
9 concerned that the values were not being properly
10 identify and evaluated?

11 MR. MULTAMAKI: A. It was my
12 understanding that the main concern at that time and
13 the, I guess as you put it, the cause for concern over
14 Little Vermilion Lake was the high value fly-in tourism
15 value that was there and the effect or potential effect
16 that harvesting -- or timber operations could have on
17 that value.

18 Q. Did the planning team understand the
19 adverse effects that could happen?

20 A. That could happen to the tourism
21 industry as a result of timber management activities?

22 Q. (nodding affirmatively)

23 A. Yes, I think we were aware of that.
24 In fact, that's why -- or one of the reasons that
25 brought us to -- or produced the discussion that took

1 place, the meetings and the final resolution with
2 resulting prescription for Little Vermilion Lake.

3 Q. Now, how did you personally become
4 aware that the 0-120 zone had become compromised and
5 cut?

6 A. As I remember it, the tourist
7 operator, Mr. Cheney, came in and indicated to me that
8 he had been flying over the area and was concerned
9 about the reserve on Little Vermilion Lake.

10 Q. So it was a member of the public that
11 brought it to your attention; namely, the tourist
12 operator?

13 A. As I remember it, yes, I think so.
14 He had flown over.

15 Q. Now, Mr. Multamaki, we both know the
16 gentleman in question, Mr. Cheney. How would you
17 describe his state of mind on the day when he informed
18 you that that had happened?

19 THE CHAIRMAN: Was the contact made with
20 you, like, were you there when Mr. Cheney came in?

21 MR. MULTAMAKI: I can't remember whether
22 he contacted myself or the district manager. He may
23 have contacted both of us because I remember discussing
24 it with the district manager. And in fact, as soon as
25 he contacted the Ministry, I personally went out,

1 inspected the area, basically told the operator that
2 was there that we had a concern and could he please
3 move his equipment to another location while we sorted
4 it out, and we took it from there.

5 But it was either the district manager or
6 myself or both of us in conjunction. As I remember it,
7 we were both aware of it at about the same time from
8 the same individual.

9 THE CHAIRMAN: I take it he was upset?

10 MR. MULTAMAKI: Yeah, that's putting it
11 mildly.

12 MR. SAYEAU: Q. Now, you indicate that
13 your planning team did recognize the social/economic
14 contribution of the tourism industry on that lake to
15 the local economy?

16 MR. MULTAMAKI: A. It was recognized as
17 a high value fly-in fishing lake.

18 Q. Do you feel that the planning
19 prescriptions that resulted in the final plan were
20 adequate to recognize and protect those identified
21 values in the long run?

22 A. Absolutely, and I think that both Mr.
23 Geary and Mr. Cheney have demonstrated that in fact --
24 and I should point out that I talked to Mr. Cheney
25 approximately a year after we had put those

1 prescriptions into effect and had harvested some of the
2 blocks, and I pursued it with him the following year to
3 find out, in fact, if there were impacts on his
4 operation as a result of this and that was -- because I
5 remembered a telephone call by myself, and he indicated
6 to me that he was doing as well or better than the
7 previous year when operations had not taken place
8 there.

9 So I would say, based on that, certainly
10 Mr. Cheney is doing as well or better, according to his
11 words, than he had prior to harvesting taking place.

12 Q. Right. And that evaluation that he
13 gave you may or may not have had something to do with
14 the marketplace in that year?

15 A. Certainly. There may have been a
16 variety of factors and it may not be attributed to any
17 single factor, but certainly he indicated that he
18 didn't see any impacts at that point in time, in fact
19 he indicated --

20 THE CHAIRMAN: Would that have been after
21 the unauthorized cut in the 120-metre zone, that you
22 spoke to him about how business was?

23 MR. MULTAMAKI: I'm not sure. I think it
24 was before. As I remember, I think it was before that.

25 MR. GROVES: Mr. Chairman, I maybe can

1 add to that, that I have had that same conversation
2 after the cut, as of last summer, and both gentlemen
3 were still content with the prescriptions and still
4 more than willing to negotiate harvesting in the
5 120-240 zone.

6 MR. MULTAMAKI: And I think as a comment,
7 the facts really speak for themselves in that the two
8 tourist operators on that lake seemed to be satisfied
9 with the resolution that took place and they haven't
10 indicated that they have been impacted by the
11 operations, so...

12 MR. SAYEAU: Q. Well, I think, if I am
13 correct, that shortly after that happened the cutting
14 shifted to a different area; did it not, and that area
15 was closed off?

16 MR. MULTAMAKI: A. Oh, what you are
17 referring to, as I understand it, is Skookum Bay
18 Logging's operation, they moved from the summer ground
19 which was the block 16 where this unauthorized cutting
20 occurred, to the northern part of the unit. It was
21 still adjacent to Little Vermilion Lake, but on the
22 northeast side of the lake.

23 Q. Now, Mr. Multamaki, do you know if
24 there were any tradeoffs made with the operators,
25 between the operators and the Ministry of Natural

1 Resources to get their concurrence on the reduced
2 prescriptions?

3 A. I don't understand what you mean by
4 tradeoffs.

5 Q. Well, you know, the operators are
6 operating, both of them, I think on more than one
7 location; that is to say, in other areas other than
8 Little Vermilion, and they are from time to time
9 looking for other locations to locate outpost cabins
10 and we all know that, or I believe we -- what I am
11 trying to get at here is that sometimes there are
12 arrangements made. Were there arrangements made?

13 A. To the best of my knowledge that
14 absolutely did not occur.

15 Q. Thank you. Okay. Can we just turn
16 for a minute then back to the planning team and their
17 areas of responsibility and --

18 MR. FREIDIN: Can he sit down now?

19 MR. SAYEAU: Yes, sorry.

20 Q. Maybe just before I let you get away
21 with that, would you agree that sometimes a look at
22 things today; i.e., the experience which Mr. Cheney may
23 or may not have indicated to you as recently as last
24 year or so, he may over the period of -- over a period
25 of time, a year, two years, three years from now change

1 his mind on the effect that that had on the question of
2 total access of that lake?

3 MR. MULTAMAKI: A. Well, once again, I
4 guess that's speculation; however, I'm sure that any
5 individual can change their mind about just about
6 anything and that's a reasonable assumption, I guess.

7 Q. What I'm getting at is that over --
8 as times goes on and more people become aware of the
9 fact that the lake is at least accessible by 4x4s, is
10 it possible that growing access to the lake could
11 change Mr. Cheney's mind?

12 A. If in fact access is growing, it
13 could perhaps influence his -- the way he thinks about
14 it all right.

15 Q. Now -- sorry, I want to get -- I
16 don't want do belabour this point, but I want to just
17 go to the members of the planning team for a minute.

18 And on the planning team we have
19 indicated that you are the forest management team
20 coordinator, at least that's indicated. Page 109, by
21 the way, of this book. I don't know what the book is.

22 A. 108?

23 Q. 109 it says on my copy.

24 A. Well, the book -- I don't know which
25 book it is.

1 Q. Oh yeah, right.

2 MR. FREIDIN: Book 5.

3 MR. SAYEAU: Q. Book 5.

4 MR. MULTAMAKI: A. Yes.

5 Q. So I understand that you are the
6 forest management team coordinator and you are
7 responsible for:

8 "Forest management technical aand
9 professional sections--"

10 A. Correct.

11 Q. "--and class environmental assessment
12 documentation. Responsible for ensuring
13 that the plan process as given in the
14 Class EA in Timber Management Planning
15 Manual is followed. This includes:"

16 Now, can you draw my attention where it
17 indicates -- if you are responsible for class
18 environmental assessment documentation, can you
19 indicate where your areas of responsibility lay on you
20 a responsibility for assessing the social/economic
21 benefits or effects of the plan to a local community or
22 a community inside the planning area, or is there a
23 member of your team that's responsible for that?

24 A. That specific responsibility, as you
25 have outlined it, I guess was not directed at any

1 single individual person on the planning team. I
2 think, as we pointed out, that as a whole -- the
3 planning team as a whole and all of the individuals
4 certainly -- I guess -- yeah, I guess the term I'm
5 looking for is it's inherent in most of the
6 operations -- or most of the operations that we plan
7 and the method with which we plan them and so on.

8 And I guess in recognition of that on my
9 part, as the timber person or the plan author with
10 responsibility for the timber aspects of the plan, I
11 looked at things like the road access program, and you
12 will notice in the plan that there is a financial
13 analysis or whatever of the costs and so on associated
14 with it and so on.

15 So it was recognized that certainly there
16 were social and economic benefits to be had as a result
17 of timber management activities and it was, I guess, an
18 inherent responsibility for all of the planning team
19 members and it was recognized as such.

20 Q. Were there other -- how do you
21 describe, though, the basic task of the planning team?

22 A. The basic task. Those are really the
23 responsibilities, as I understand it, as are laid out
24 in the terms of reference. They were relatively clear
25 and concise.

1 Q. Would the first objective pretty well
2 define it?

3 A. Which objective are you talking
4 about?

5 Q. The first planning objective.

6 A. Oh. If you hold on a minute --

7 Q. The page reference I think is --

8 A. Page 31 of Book 1, Exhibit 814?

9 Q. Yes.

10 A. For this --

11 Q. 4.8, I guess.

12 A. That's right, 4.8.1.

13 Q. Yes, but .0.

14 A. I will wait for the Board to...

15 Q. And would you just read us that first
16 objective?

17 A. Are you talking about the objective
18 right at the top under 4.8?

19 Q. Yes.

20 A. "To provide for an optimum continuous
21 contribution to the local, regional and
22 provincial economy by forest-based
23 industries while employing sound
24 environmental practices and providing for
25 other forest uses."

1 Q. And do you accept the fact that sound
2 environmental practices have a local socio-economic
3 dimension to them?

4 A. Certainly. I think we've recognized
5 that in this statement.

6 Q. And what is the second objective, the
7 production objective?

8 A. Okay. I think what you are talking
9 about is the objective that I just read into the record
10 is the basic forest management objective for the
11 district and the 4.8.1, the production objective, is
12 one of the single objectives that is complementary to a
13 number of others; for instance, I think there are seven
14 other objectives that make up that.

15 Q. Yes.

16 A. I guess basically subcomponents of
17 the objective that I read in, the overall objective.

18 Q. What I am getting at is the
19 production objective. Would you just outline the
20 production objective?

21 A. Sure. It is:

22 "To ensure the availability of 1,442,156
23 (156 cubic metres) of conifer material
24 from the Red Lake Crown Management Unit
25 over the 1986-1991 plan period."

1 Q. Now, would that be per year or over
2 the five-year period?

3 A. It's over the five-year period.

4 Q. It's one -- roughly 1. -- let's say
5 1.5-million, 1.4-million?

6 A. 1.4-million.

7 Q. How would that relate to the Dryden
8 mill requirements? What are the requirements in the
9 Dryden mill; do you know that?

10 A. It has no direct comparison to the
11 Dryden mill requirements. You have to --

12 Q. Excuse me. I just want to try to
13 draw a volume type comparison.

14 A. I'm not sure what the Dryden mill
15 uses off the cuff. I would imagine we are in the
16 hundreds of thousands of -- or actually in the millions
17 of cubic metres, I would imagine, but again I'm not
18 sure of the actual number.

19 Q. Is there -- what I am trying to find
20 out is what percentage, just as a volume type of thing,
21 this would be of that requirement?

22 A. It would be, I would think, a smaller
23 percentage. It certainly wouldn't be anywhere near
24 half of the requirements for that mill.

25 Q. Okay.

1 A. And I should clarify that you are
2 making some assumptions that all of that fiber would go
3 to Dryden.

4 Q. No, I'm not making that assumption,
5 I'm just trying to get sort of a volume type of idea.

6 A. My guess is that it would be
7 somewhere in the, you know - I don't know - somewhere
8 less than 50 per cent and considerably less than 50 per
9 cent.

10 Q. Would 50 per cent -- or let's call it
11 for the sake of a discussion something less, 25 per
12 cent?

13 A. Again, I'd be guessing. I'm not sure
14 what their requirements are.

15 Q. Okay. I think what I'm trying to get
16 at and I don't know how to get at it, would the impact
17 of that harvest on the local community be the same
18 value to the local community as the contribution that
19 that harvest would make to the processing community--

20 A. Are you saying is there --

21 Q. --dollar wise?

22 A. I think what you are getting at is
23 something to the effect of, if it were processed in the
24 Red Lake -- in the community of Red Lake would it be
25 worth more; is that what you are saying?

1 Q. All I'm saying is there is a certain
2 value, economic value to the cutting operation -- the
3 harvesting operation, then there is a certain value,
4 economic value to the processing operation. Are the
5 two the same?

6 A. No, they're not. And I guess to
7 clarify that, as you move -- or as raw timber moves
8 towards and through the various processes required to
9 produce, say, fine paper, newsprint or saw mill
10 material, the value of that product increases and the
11 subsequent return to the individuals or the companies
12 doing that processing receive, I guess, a greater
13 return. Is that what you are looking for?

14 Q. Right. And so then it could be
15 possible that as far as the local community is
16 concerned; that is to say, the extraction community is
17 concerned, it may be of greater value to them to have
18 that wood remain where it is to protect another
19 industry than to see it go someplace else. Is that a
20 fair statement?

21 A. Again --

22 THE CHAIRMAN: If it is worth less to the
23 extracting community than it is to the processing
24 community because the rate of return, as I understood
25 your evidence, is less to the extracting community --

1 MR. MULTAMAKI: I'm sorry, I didn't...

2 THE CHAIRMAN: Sorry. Going on what you
3 just said, if the value to the extracting community,
4 the community that's doing the harvesting, is worth
5 less than the value to the processing community, the
6 one that has the mill that's processing it, because the
7 rates of return--

8 MR. MULTAMAKI: Are higher.

9 THE CHAIRMAN: --are higher, then is your
10 proposition that you just put forward correct?

11 MR. SAYEAU: That it may be of a greater
12 value to the local community to have it remain, to the
13 value of another industry.

14 THE CHAIRMAN: Well, when you say 'of
15 greater value', because they are receiving less?

16 MR. FREIDIN: I think maybe when he's
17 saying it could be left standing for the value of
18 another industry, he is talking tourism or something
19 else, that's the import of the question.

20 MR. SAYEAU: Yes.

21 THE CHAIRMAN: Very well. Thank you.

22 MR. SAYEAU: Q. What I'm getting at is:
23 Does your planning team assess that, relative weights?

24 MR. MULTAMAKI: A. We assess it on a
25 case-by-case basis and, as I understand your question,

1 if you are asking me - let's take Little Vermilion
2 Lake - is the area in the 0-120-metre reserve of more
3 value to the tourism industry that's on Little
4 Vermilion Lake or the timber industry which requires it
5 for the saw mill in Red Lake, we have a 120-metre
6 reserve.

7 Q. Sometimes.

8 THE CHAIRMAN: Just one minute. Just to
9 go back to this whole area of questioning.

10 If in fact it is of more value to leave
11 it standing because of some other industry such as
12 tourism there, what do you do when you have an industry
13 that still requires some of the timber; like you do
14 have a mill in Red Lake that requires the saw logs.

15 So even though the value may not be as
16 high as, say, the timber is to a processing town like
17 Dryden, for instance, with much larger requirements and
18 a processing industry that will get a greater rate of
19 return, and even though there might be a larger value
20 or gain by leaving it standing, how do you accommodate
21 the fact that you have a mill at this time that
22 requires the wood?

23 MR. KENNEDY: Mr. Chairman, if I could
24 offer an observation. In part, the line of questioning
25 that we are encountering now is in many ways a land use

1 planning question where there is an identification of a
2 variety of potential uses of the land base.

3 MR. SAYEAU: Well, wait a minute. I
4 don't think we should let you get away with that.
5 I think what we are talking --

6 MR. FREIDIN: Let him finish and then try
7 not to let him get away with it.

8 MR. SAYEAU: After he has finished it.

9 MR. KENNEDY: And the reason I say that
10 is that you are suggesting an alternative use of the
11 land base and you are putting it forward by way of an
12 economic analysis, if I could suggest, and that kind of
13 analysis occurred during the preparation of the
14 District Land Use Guidelines, albeit there is not one
15 that is approved for the Red Lake District.

16 But that kind of a determination of the
17 mix of resource use occurred during the preparation of
18 those guidelines and determinations were made of kinds
19 of permitted uses that can occur in different areas.

20 MR. SAYEAU: Q. But that's the point
21 precisely. Have the land use guidelines been approved?

22 MR. KENNEDY: A. No, it's quite clear
23 that there has not been an approved District Land Use
24 Guideline for the Red Lake District.

25 Q. Now, why haven't they been approved?

1 A. I believe we've led evidence on that
2 in other panels and it relates to -- in short, it
3 relates to a decision of the Minister at the time that
4 the Royal Commission of the Northern Environment was
5 taking place.

6 Q. So in the meantime who does the
7 balancing act, that's what I want to know? Who is
8 responsible for the balancing act, because the timber
9 plan is being put forward, it is being prepared; who,
10 if not the team, does the planning act - the balancing?

11 A. Quite clearly, the Ministry of
12 Natural Resources is left with the responsibility to do
13 that balancing, as you've referred to it as, and the
14 planning team as a whole are the individuals that are
15 required to do that, and they are both accountable --
16 they are accountable for that balancing.

17 Q. All right. Now, what we want to know
18 is: How do we throw you out of office when we find
19 that your balancing act is not really reflective of the
20 needs of a community?

21 A. Well, you certainly have recourse.
22 If you are speaking in regards to timber management
23 planning, of course, through the public consultation
24 there are opportunities for you to come forward and
25 make your views known.

1 Q. We can't fire you.

2 THE CHAIRMAN: Well, with respect, Mr.
3 Sayeau, we have had evidence that if any member of the
4 public or any group is dissatisfied with the decisions
5 made at the district level with respect to
6 recommendations for the timber management plan, they
7 can go on up the ladder until ultimately, I suggest,
8 you arrive in the Minister's office of Natural
9 Resources and, depending on whether or not you like his
10 decision, I guess the ultimate retribution is at the
11 ballot box in the next election.

12 MR. MARTEL: But your argument isn't -- I
13 mean, I don't think MNR is the one that is responsible
14 for the rate of return, that's really what you are
15 talking about, of what a community gets or the industry
16 that's located around it. I don't think MNR makes
17 those decisions, they have a planning process.

18 What you are looking at is the benefit
19 from the cutting that goes around and around in your
20 community, and I think you are dealing with the wrong
21 group.

22 If you are going to have an argument on
23 the rate of return, it has to be with the Treasurer of
24 the Province of Ontario who, in fact, divvies up the
25 pie, so to speak, and the way that occurs is what the

1 argument is really all about.

2 How do you get back -- for example, you
3 have to provide services for a multitude of people for
4 which there is no tax base, that's really what you are
5 getting at.

6 MR. SAYEAU: Exactly.

7 MR. MARTEL: And if you don't have a tax
8 base because nobody lives -- everybody lives in your
9 community but there are no services, there is no plant
10 with which to assess, it is cutting out in the bush,
11 most of which is unorganized communities, unorganized
12 townships, and you have got to get a handle on how you
13 get a fairer return for what is going on in the bush
14 for which you virtually get, I suspect you are saying,
15 very little.

16 MR. SAYEAU: That's the one side of the
17 argument. The negative side of the argument is that
18 the timber management planning process takes away or
19 can act to the detriment -- as he has already
20 indicated, can act to the detriment of other
21 industries.

22 And so not only do you not get anything
23 on the positive side of the ledger, you end up with a
24 net loss on the other side of the ledger because unless
25 the timber management planning process is handled in

1 such a way that value judgments are made continuously,
2 I suggest that what tends to happen is that an existing
3 industry loses the protection that it needs to survive.

4 THE CHAIRMAN: But would you not agree,
5 Mr. Sayeau, that when you are looking for
6 accountability in the process, if the process has built
7 into it various steps at which views of competing
8 constituencies can be put and you move on up the ladder
9 until ultimately, theoretically in the timber
10 management planning process, the decision might be the
11 Minister's himself as you go through the steps for
12 review at head office, for instance.

13 There is also another constituency and
14 decision-making process and that might reside with the
15 Minister of Tourism. For instance, the same arguments
16 can be made for enhancing the tourist industry within a
17 given area and representations can be made up the
18 ladder again, ultimately residing presumably with the
19 Minister of Tourism.

20 And what I am getting at essentially is,
21 is that at the top of the pyramid is government, and if
22 these are provincial areas of authority or
23 responsibility, then ultimately the government is
24 responsible, accountable and, presumably in our system,
25 accountable at the next election.

1 MR. SAYEAU: I wouldn't want -- I think
2 maybe something is happening here that we didn't intend
3 to happen. I don't want to be construed as any
4 advocate of the tourism industry more than the forest
5 industry.

6 What I am trying to get at with the
7 questioning - and I am not succeeding very well - is
8 who speaks for the community in this process? That's
9 what I'm trying to get at, and I'm not doing a good job
10 of it. But who speaks for the community and what is
11 best for the local community? .

12 Q. The overriding concern of the
13 planning team, I think -- and perhaps, Hartley, the
14 overriding concern of the planning team, I suggest to
15 you, is to harvest 1,400,000 cords of wood?

16 MR. MULTAMAKI: A. No, that's not
17 correct. There are a number of objectives, all of them
18 intended to be complementary, none overriding the
19 others.

20 Q. It's easy to say but not so easy to
21 swallow when the position seems to be a defensive one
22 on all sides.

23 MR. KENNEDY: A. Mr. Sayeau, this is the
24 resource management plan. The purpose of the plan is
25 to plan the timber management activities. Other

1 resource plans, such as the fisheries plans, would
2 address the development of the fisheries resource.

3 So it should not be a surprise to see the
4 purpose of the plan stated as producing timber and the
5 statements that we have been going about it in an
6 environmentally acceptable fashion.

7 Q. But I don't think it's that easily
8 separated because we are talking about the same land
9 base; are we not?

10 A. We are.

11 Q. I notice that -- and that's one of
12 the things that I notice in your proposal, very quickly
13 there seems to have been a shift in the verbal
14 direction, if I can suggest to you, from calling these
15 forest management plans to now calling them timber
16 management plans?

17 A. Well, you may not be aware of the
18 considerable amount of evidence that we have led in
19 that regard. To be brief, we've simply clarified what
20 our activities were to be under this submission and
21 that is timber management, activities of harvesting
22 trees, providing access and renewal and maintenance
23 objectives.

24 Q. But all on the same land base?

25 A. Yes, they are all occurring within

1 the timber management unit.

2 MR. MARTEL: If you were getting a
3 greater return, would your worry be as great about how
4 you would divvy it up in terms of the land base if you
5 had enough with which to provide the amenities in your
6 community from the tax base from the Treasurer of
7 Ontario?

8 MR. SAYEAU: I'd like to be in a position
9 to assess the two offers, if I can put it that way. I
10 don't want to answer a question with a question.

11 THE CHAIRMAN: Are you making an offer on
12 behalf of the Treasurer, Mr. Martel?

13 MR. MARTEL: Hardly.

14 MR. SAYEAU: I think I am going to let
15 Mr. Axford carry on from here.

16 MR. AXFORD: I think the point was, Mr.
17 Martel, it's extremely difficult to produce any kind of
18 a balancing act to make those value judgments and the
19 only mechanism we have today to assist us, because of
20 the failure of SLUP, is the timber management planning
21 process. There seems to be no other.

22 So we can only address what we are given
23 and we choose to address this Board because it offers
24 one alternative, to view the social/economic balancing
25 act that's required over the next few years as we

1 really move into the frontiers of our province, and the
2 things that we do in the frontier today are under much
3 more scrutiny than they were years ago.

4 So we are trying our very best to defend
5 our position and defend our right to something as we go
6 along and that's the only mechanism we have to do it.

7 THE CHAIRMAN: We are trying to
8 understand as best we can what is at the source of your
9 concerns to ascertain whether or not we have any
10 jurisdiction within this exercise to address them.

11 MR. AXFORD: Very bluntly, we think we
12 got a raw deal, and we look to somebody to save us a
13 little bit. We are doing what we can for ourselves,
14 but the process and the government that we have in
15 place, being a fair government, should have something
16 in its process to address this issue.

17 We think that the mandate and your Board,
18 recognizing the social/economic environment, directly
19 impacts on the problem that we are having within the
20 community. We ask you to make some decisions based on
21 that. You have some power over the process of timber
22 management, we think you can use some of your power to
23 issue some form of an order that is going to take into
24 account those social/economic factors.

25 That's where we are heading with it and

1 we want that balancing process to go into place. Not
2 that we are trying to be pro tourism, not that we are
3 trying to be pro wood, but we want that balancing act
4 to occur because sometimes the wood industry is very
5 good to us. Anyway...

6 THE CHAIRMAN: Will you be putting in,
7 sir, if I might ask--

8 MR. AXFORD: Oh, yes.

9 THE CHAIRMAN: --at this point terms and
10 conditions.

11 MR. AXFORD: Oh yes, absolutely.

12 THE CHAIRMAN: Okay.

13 MR. AXFORD: Absolutely. Okay. And
14 before we leave that little area, I just want to
15 repeat -- and I'm going to put some words in Mr.
16 Kennedy's mouth.

17 CONTINUED CROSS-EXAMINATION BY MR. AXFORD:

18 Q. I think you said earlier --

19 MR. FREIDIN: You can try.

20 MR. AXFORD: I will try.

21 Q. I can't quote it exactly, but you
22 said something like, I don't think the public has the
23 skills necessary to do the timber management planning
24 by themselves, they require our services or something
25 like that. Have I got that close or...

1 MR. KENNEDY: A. Yes, I made reference
2 to words -- or I said words to that effect, yes.

3 Q. Okay. I just put it to you that
4 there is a prevailing feeling - and because of this
5 conversation I bring it out - there is a prevailing
6 feeling in the north that MNR doesn't have the skills,
7 the socio-economic skills to see out the planning
8 process, you know, they feel -- there is an equal
9 feeling on either side.

10 A. We look forward to the terms and
11 conditions that you propose that would outline the kind
12 of economic analysis that you feel would be required in
13 that regard.

14 Q. Okay. And we are going to move from
15 this into economics very directly because that is
16 exactly what we want to deal with, that as a forester
17 you make some assumptions about economics and we are
18 going to call those into question now.

19 And I would ask you -- I think we've
20 clarified the socio-economic dimension from the
21 Chairman, so I think we are now calling into
22 question -- I would like to go to this white book
23 again, No. 5; is it?

24 A. There are a number of excerpts from
25 the planning process in that book, yes.

1 MR. FREIDIN: Which one?

2 MR. AXFORD: We're going right to here,
3 page 32.

4 MR. FREIDIN: Exhibit 814, Book 1, page
5 32.

6 MR. AXFORD: Okay.

7 Q. Since we are dealing with economic
8 issues, I wonder if we could get Mr. Multamaki to
9 clarify under 4.8.6, the employment objective. And I
10 would refer you before we do that to -- and I can't
11 give you a -- I can't give you a document number here,
12 but it has to do with Panel 1 and what is it is an
13 interrogatory from CSIT on Panel 1, on page 4.

14 MR. AXFORD: I think Michele has provided
15 you with it, but, if not--

16 THE CHAIRMAN: Yes, I think we were
17 provided with that this morning.

18 MR. AXFORD: --I will read it to you.
19 It's very simple what we want here.

20 MR. FREIDIN: From Panel 1?

21 MR. AXFORD: From Panel 1. That the type
22 of calculations -- that we had asked a question about
23 some calculations about economic value and employment
24 and this kind of thing, and the answer essentially was
25 this --

1 MR. KENNEDY: We don't have a copy of
2 that. If you could --

3 MR. AXFORD: All right. I'd be happy to
4 provide it but it's -- it's right here.

5 MR. FREIDIN: It hasn't been filed. This
6 is an interrogatory from the Association of Single
7 Industry Towns. I don't believe that has been filed.

8 THE CHAIRMAN: No, but I think you
9 mentioned it to the hearing liaison officer this
10 morning; did you not?

11 MR. AXFORD: Yes, I did.

12 THE CHAIRMAN: And she provided the Board
13 with a copy of it.

14 MR. FREIDIN: The panel does not have a
15 copy of it.

16 THE CHAIRMAN: Okay. We will take care
17 of that in a minute, Mr. Freidin. Let's just find the
18 document.

19 MR. AXFORD: Perhaps, if you forgive me,
20 this is a very simple issue here. The question was
21 about measurements and the answer given was that it
22 will be provided in Panel 15. That's all I am trying
23 to bring forth here. This is now Panel 15, we are
24 ready to deal with that issue.

25 MR. MARTEL: Which number are you looking

1 at?

2 MR. AXFORD: Question 15.

3 THE CHAIRMAN: I don't think the parties
4 really need it, Mr. Freidin, because it is a very
5 simple question.

6 MR. KENNEDY: If the panel could have an
7 opportunity to --

8 MR. FREIDIN: I would like an opportunity
9 just to look for it. Okay, thank you.

10 MR. AXFORD: Okay. The point was that --

11 MR. KENNEDY: Could the panel have an
12 opportunity to look at that as well?

13 MR. AXFORD: Pass this over if you want.
14 I just want it back. We very simply were directed to
15 Panel 15 to wait for our answer.

16 MR. KENNEDY: I'm not sure what the
17 question was though, Mr. Axford.

18 MR. AXFORD: Oh.

19 MR. FREIDIN: The document you got I
20 think said: The type of calculations undertaken of the
21 measurement units vary according to program. Panel 15.
22 That's the answer. The question -- you don't have the
23 question?

24 MR. KENNEDY: No, I do not have the
25 question.

1 MR. FREIDIN: The question says:
2 "Calculation", and I don't know what part of the
3 document he was referring to.

4 "How are these calculated, what criteria
5 is used to keep score; i.e., man
6 employment days."

7 And I don't know what it was that the
8 question is referring to.

9 MR. KENNEDY: Well, we would need to --
10 before we were able to entertain any answers, we would
11 need to see the context of the original question.

12 MR. FREIDIN: (handed)

13 THE CHAIRMAN: I guess, Mr. Axford, what
14 they are asking is what document or what evidence arose
15 back in Panel 1, if that's where it is from, that gave
16 rise to the questioning--

17 MR. AXFORD: Okay. There was some
18 comment --

19 THE CHAIRMAN: --as to how the
20 calculations were arrived at.

21 MR. AXFORD: I'd have to paraphrase it
22 because I don't have it in front of me. There was some
23 comment that MNR make some calculations about man
24 employment days and about benefits. And I said: How
25 do you make those calculations.

1 MR. KENNEDY: It may have been in the
2 Panel 1 witness statement.

3 MR. AXFORD: Yes, I think it was.

4 MR. KENNEDY: I'm afraid we would need
5 some time to refer to the context in which the
6 statement was made.

7 MR. FREIDIN: I should admit, Mr.
8 Chairman, that the early submissions and
9 interrogatories took a number of different forms and I
10 am just looking, Mr. Axford's took a form quite
11 different than everyone else's and I think it's
12 difficult for me to quickly find what page reference or
13 comment he was referring to when he asked the question.

14 And I would ask again, if the panel
15 thinks they need some time...

16 THE CHAIRMAN: All right. Could we do
17 this, as a suggestion...

18 MR. AXFORD: Do you want me to throw it
19 out in the garbage for now?

20 THE CHAIRMAN: No, no. Without
21 necessitating your reattendance, could we ask that the
22 Ministry confer with you as to the context from which
23 that question arose and provide you with an answer of
24 this panel in writing.

25 MR. KENNEDY: We would be pleased to do

1 that, Mr. Chairman.

2 THE CHAIRMAN: In other words, you will
3 get the answer from Panel 15 but it will come to you in
4 written form because they can't, at this stage of the
5 game, go back to Panel 1's evidence and put it into
6 context.

7 MR. AXFORD: Okay. I didn't think we
8 required that. All I was trying to illustrate was this
9 was our time to ask the question on economics. You've
10 demonstrated some economic numbers in here, we are now
11 ready to ask some questions on them.

12 MR. KENNEDY: I am not sure that's the
13 correct interpretation to put on that response that you
14 received without the context of the original question.

15 THE CHAIRMAN: Okay. Why don't you go
16 ahead and ask your questions, put your questions on the
17 record; if they can't answer them at this point without
18 going back --

19 MR. AXFORD: Oh, I don't think they would
20 require that. But we will see.

21 THE CHAIRMAN: Okay, let see. And, if
22 so, we will have them answer them in writing for you.

23 MR. AXFORD: Yeah.

24 Q. All right. To Mr. Multamaki, the
25 author of the plan, get busy on page 32 and tell us how

1 you figured this out? I can't understand it.

2 At the bottom of page 32 I have got,
3 first of all, 1200 cubic metres of wood generating a
4 job. Where does that figure come from?

5 MR. MULTAMAKI: A. That was a simple
6 estimate of --

7 Q. Estimate?

8 A. It was an estimate based on - if you
9 will let me complete the thought - on discussions with
10 the timber operators on the Red Lake Crown Management
11 Unit at that point in time and it was felt that 1200
12 cubic metres of wood was approximately the value of a
13 position.

14 And the discussion was -- I went out and
15 talked with the timber operators and said, you know: I
16 would like to have some sort of estimate on how many
17 people are employed, how much wood it takes to cover
18 the cost of a person and so on, and it was a fairly
19 simple estimate based on consultation, I guess, with a
20 number of the timber operators.

21 Q. Is there some kind of industry
22 standards here we are dealing with, or what is this?

23 A. No, that is strictly for the Red Lake
24 Crown.

25 Q. This 1200 cubic metres, would that

1 mean it was 1200 cubic metres cut by chain saw or by
2 snipper or what? How do you figure that out?

3 A. At the time it was based on cut and
4 skid which was chain saw because that was the prevalent
5 method of harvesting wood on the Red Lake Crown
6 Management Unit; recognizing that technology has
7 changed in the last five years to a large extent on
8 timber harvesting operations, it would not perhaps be
9 relevant for a feller buncher operation.

10 Q. Before I go on here, to me this
11 calculation of economics that - maybe to the Chairman -
12 if we are dealing with socio-economic issues, is this
13 not a fairly critical calculation of what comes out of
14 this thing?

15 MR. KENNEDY: A. The calculation doesn't
16 form any basis of anything in the plan, it's an
17 observation that has been made relative to the amount
18 of wood that is expected to be harvested or planned to
19 be harvested off this unit in the five-year term.

20 Q. How can you -- Mr. Kennedy, how can
21 you make a statement that the calculation of employment
22 has no relevance to the socio-economics of this
23 planning process?

24 A. It does have relevance in terms of
25 communication of the kind of employment base that may

1 be generated, but what I am indicating to you is it's
2 not a determining factor in the kind of operations that
3 will occur on the unit.

4 Q. Well, if it's not a determining
5 factor in what your planning process covers, I have to
6 believe with the ground that the Environmental
7 Assessment Board sets on socio-economics, it darned
8 well ought to be, there is something fundamentally
9 wrong here.

10 A. I think -- I am wondering if there is
11 some confusion between the purposes of coming to this
12 hearing and talking about the undertaking of timber
13 management and the requirement to address the social
14 and economic part of the environment here at this
15 hearing as compared to the preparation of a timber
16 management plan, where there is no formal requirement
17 to deal with the social and economic concerns for each
18 and every forest management unit on an individual
19 basis.

20 Q. Well, I appreciate that, Mr. Kennedy,
21 and I thank you for bringing it up, because that is the
22 crux of the issue.

23 MR. AXFORD: I throw it back to the
24 Chairman, are we or are we not dealing with
25 socio-economics in this hearing?

1 THE CHAIRMAN: Well, we certainly are in
2 terms of the requirements of the Environmental
3 Assessment Act pursuant--

4 MR. AXFORD: Do I hear Mr. Kennedy
5 admitting that he's not prepared to meet those
6 requirements?

7 MR. KENNEDY: No, I think not at all, Mr.
8 Axford. We have led a considerable volume of
9 information on social and economic effects of each one
10 of the activities that we have proposed which, in our
11 view, allows us to meet the obligations under the
12 Environmental Assessment Act.

13 Those social and economic effects have
14 been dealt with at the provincial level which is how we
15 are handling the evidence here at the hearing. We have
16 led those -- our evidence in relation to each one of
17 the activities as we propose them, we have also led
18 detailed evidence in Panel 5 to deal with the forest
19 industry in the overall context of the province, as
20 well as information in Panel 6 on the entire overview,
21 I believe.

22 MR. AXFORD: Q. Okay. I don't want to
23 belabour the thing because there is no sense being
24 adversarial here.

25 And I think, for example, Mr. Multamaki

1 has been very forthcoming, very helpful as we have gone
2 through the timber management process in Red Lake. We
3 don't always agree, but I don't want to show that we
4 are totally adversarial. We have always made an
5 effort.

6 The issue here I am trying to bring out
7 is the professional standards that he works to with his
8 degree and with his efforts take you one particular
9 direction.

10 I think -- would you not agree with that,
11 or how do you feel about that, and then let's look at
12 this economics thing, see what it does.

13 MR. MULTAMAKI: Yes. Certainly I think
14 the other factor, whatever, or issue that we have been
15 singing and dancing around is with respect to this
16 employment business.

17 You have to recognize that the Ministry
18 of Natural Resources does not have control of the
19 companies that were responsible for this employment
20 objective; i.e., we do not tell them how to do business
21 in the same way that we would not go to you as the
22 owner of the McLeod Store in Red Lake and tell you how
23 many employees you have to hire or how you will conduct
24 your business and I think you recognize that.

25 Q. The difference being that we are

1 dealing with a public resource and the public body has
2 employees that are empowered to plan the use of that
3 resource, and one of those pieces of the planning
4 procedure is an employment objective listed on page 32.

5 And let me just offer to you the floor.
6 Please explain to me how you made these calculations?

7 MR. FREIDIN: He did.

8 MR. MULTAMAKI: That has been explained.
9 In fact, it was through consultation with the local
10 timber operators on: How much wood do you have to cut
11 to hire a person.

12 MR. AXFORD: Q. Well, you gave me the
13 figure of 1200 and how you came to that figure.

14 MR. MULTAMAKI: A. That's right.

15 Q. And I think you've said that may
16 change. But we have got a few more figures here. \$34
17 per cubic metre. Could you tell me how you arrived at
18 that figure?

19 A. Again, that was in exactly the same
20 fashion: How much does your wood sell for at the mill.

21 Q. Oh, you mean that \$34 per cubic metre
22 is the price of the wood at the mill?

23 A. That's right, that's what it says.

24 Q. That's correct. Okay. Doesn't it
25 say here under employment objective:

1 "To provide the maximum number of
2 employment opportunities for local
3 residents"?

4 Maybe I should be asking you how you
5 define local. Is that profit that goes to Toronto or,
6 you know, what is it?

7 MR. FREIDIN: Well, Mr. Chairman, you
8 know, it might very well be that until we see the terms
9 and conditions that Mr. Axford wants we will not be in
10 a position to know whether what he is seeking from this
11 Board is or is not within the jurisdiction of this
12 Board.

13 The very fact that he may be able to
14 connect something that he wants to the social and
15 economic environment does not necessarily mean that
16 this Board can deal with it.

17 So, I mean, I can't object to his line of
18 questioning because I don't know what his term and
19 condition is eventually going to be.

20 MR. AXFORD: Nor am I prepared to put it
21 out at this time.

22 THE CHAIRMAN: Well --

23 MR. AXFORD: For a number of reasons.

24 THE CHAIRMAN: Okay. But bearing in
25 mind, Mr. Axford --

1 MR. AXFORD: But you want me to get off
2 of that, fine.

3 THE CHAIRMAN: No, no. The Board doesn't
4 have absolute power in terms of this undertaking.

5 MR. AXFORD: I understand.

6 THE CHAIRMAN: We are governed by the
7 provisions of the legislation and we are governed, to
8 some extent, by the parameters of the undertaking that
9 is before us for approval, and I think we would be
10 misleading members of the public if we can suggest that
11 we can address all problems which a particular
12 community or stakeholder group may have in terms of
13 delineating what an appropriate timber management
14 planning process is.

15 MR. AXFORD: Well, I would certainly
16 accept that. I will move to a little different line of
17 questioning for now.

18 MRS. KOVEN: I have one question--

19 MR. AXFORD: Sorry.

20 MRS. KOVEN: --Mr. Axford, occasioned by
21 your inquiries and that is, that when Mr. Multamaki
22 decided to write something about employment objectives
23 he was obviously trying to fulfill or exceed a
24 requirement of the timber management plan at that time,
25 and I guess the question is: To whom was that

1 information addressed?

2 Obviously we have some people from the
3 local community and this is specifically talking about
4 local employment, who really have no idea how these
5 numbers got here or what they are to mean in terms of
6 their interests certainly.

7 And so were you putting these numbers
8 together in an attempt to fulfill a requirement by the
9 district and regional and head office reviewers?

10 MR. MULTAMAKI: No. The estimate that
11 you see here and the numbers that you see here are in
12 fact above and beyond what was considered minimum
13 requirements.

14 It was an attempt on the planning team's
15 part to provide additional information and perhaps be
16 more informative about the objectives on the Red Lake
17 Crown Management Unit and so we provided an estimate of
18 how many jobs we thought would be directly associated
19 with the timber harvesting -- or, sorry, the timber
20 management activities on the Red Lake Crown.

21 And, in part, it was generated by exactly
22 the same concerns that Mr. Axford and Mr. Sayeau have
23 raised that, you know: What is the benefit to the
24 local economy and so on. It was an attempt on our part
25 to provide some sort of an estimate of that.

1 THE CHAIRMAN: What would have happened
2 had you arrived, through the same exercise, at the
3 position that not one single job would be produced as a
4 result of the extraction of this wood from the area
5 around Red Lake -- around...

6 MR. SAYEAU: Little Vermilion Lake.

7 THE CHAIRMAN: Little Vermilion Lake,
8 sorry.

9 MR. MULTAMAKI: Yeah. This estimate
10 wasn't based on just Little Vermilion Lake, it was
11 based on the entire management unit. We certainly
12 didn't look at any individual block of timber or area
13 on the unit, we looked at the unit as a whole when I
14 did this analysis or whatever.

15 And if your question is: What would have
16 taken place had we shown that no jobs were going to be
17 created or no jobs were available as a result of timber
18 harvesting activities?

19 THE CHAIRMAN: Yes.

20 MR. MULTAMAKI: First of all, I never
21 considered that. In my mind it's not something that
22 would have come up in that there would have -- if
23 you -- for example, there had to be some sort of jobs
24 associated with the timber harvest industry. I mean,
25 to cut trees you had to have somebody doing it, it

1 didn't happen without people. So there would have been
2 at least some level of employment was my understanding.

3 MR. MARTEL: But in other industries, for
4 example, if a mining company opens up, they will
5 attempt to do an analysis of the direct jobs related to
6 mining, the spinoff effect as it would pertain to other
7 economic opportunities, and I think what they are
8 getting at is that there doesn't seem to be any type of
9 analysis - and it might not be the place - but I am
10 just saying what I think their bottom line is: There
11 is no analysis of what the total spinoff will be from
12 people who are involved in extraction.

13 And if you look at the other industries,
14 of course, they always do. And, I mean, if you have a
15 store opening up with the Ghermezian Brothers, they can
16 tell you it cost \$4-billion, it's going to create "x"
17 numbers of jobs both inside and outside, and that
18 analysis I don't think is even attempted by MNR, and I
19 think that is what they're attempting to get at. Am I
20 wrong?

21 MR. AXFORD: Mr. Martel, I would even go
22 further than that. The fact that there is no analysis
23 means there is no incentive to do anything efficiently
24 whatsoever whether it be for tourism or timber or
25 whoever.

1 MR. FREIDIN: Mr. Chairman, it certainly
2 wouldn't stand. I think to sit here and take their
3 submission about --

4 THE CHAIRMAN: We are aware that Ms.
5 Coke -- Allison Coke I believe was called earlier.

6 MR. MARTEL: About these figures.

7 MR. FREIDIN: And as my friends here
8 would say, you had better believe it.

9 MR. MARTEL: I am looking at the figures
10 here, Mr. Freidin, and all they are is the bare bone,
11 and I am suggesting that there is no economic analysis
12 beyond the 250 jobs created directly in the extraction
13 portion of the plan.

14 MR. AXFORD: We are far from prepared to
15 accept that number as fact.

16 MR. FREIDIN: I agree, Mr. Martel, there
17 is nothing specific in this timber management plan
18 beyond that.

19 MR. MARTEL: That's right. That's all
20 I'm --

21 THE CHAIRMAN: Nor did there have to be.

22 MR. MARTEL: Nor does there have to be,
23 and I recognize that.

24 THE CHAIRMAN: We recognize that as well.

25 MR. AXFORD: Well, we submit to you that

1 perhaps there ought to be a calculation of net jobs,
2 not necessarily new, but net jobs; whether this thing
3 is a net winner or loser. Maybe it's taking something
4 away from another one.

5 Somebody has got to do that calculation.
6 I don't know who it's going to be; maybe it's you,
7 maybe it's this man, but somebody has got to do it
8 before the scissors go out.

9 THE CHAIRMAN: Mr. Kennedy, who would be
10 doing it in the planning process at a localized level
11 as opposed to the provincial scale, if at all, if it's
12 proposed?

13 MR. FREIDIN: Just so I understand. What
14 is --

15 THE CHAIRMAN: Who would be doing an
16 economic analysis of, for instance, the net benefit or
17 disbenefit to a local community in terms of the timber
18 management planning process, if at all, or is it done
19 only at a provincial, regional, district level?

20 MR. KENNEDY: That kind of analysis is
21 not undertaken. We do not, have not and have not
22 contemplated, to the best of my knowledge, such
23 analysis.

24 Mr. Chairman, you would be looking at
25 including such things as the employment benefits that

1 would be derived from that production of wood to areas
2 outside the management unit, an example that has been
3 used here, from possible some spinoff benefits to
4 employment opportunities in both Kenora and Dryden.
5 You would need to take into account the employment from
6 the renewal program, the tending program of a whole
7 host of other spinoffs, and even if that was done, I am
8 not sure to what purpose that information would be put
9 to.

10 And I would draw you back again to the
11 differences between -- or, sorry, what I see as a very
12 parallel discussion of the land use intent for an area
13 and the designations that we work with and in terms of,
14 again, those areas that have District Land Use
15 Guidelines, in the course of Red Lake, the Northwest
16 Strategic Land Use Plan is still in effect and is the
17 guiding document.

18 THE CHAIRMAN: No. The reason we are
19 asking these questions, Mr. Kennedy, is so that we can
20 draw out for Mr. Axford and Mr. Sayeau perhaps the
21 reasons why an analysis is not done at the localized
22 level.

23 And we are trying, Mr. Axford, to ask
24 them: Why don't you do it. We understand what you
25 want and we are asking the Ministry essentially: Well,

1 why don't you do it so that the economic analysis is
2 available vis-a-vis the localized community itself?

3 And the answer that Mr. Kennedy has just
4 given is, one of the reasons, I think that the Ministry
5 has put forward in previous evidence, why it is not
6 done at that level.

7 MR. AXFORD: Okay. I heard the answer.

8 THE CHAIRMAN: And you may not agree with
9 the answer and you may, you know, wish in your side of
10 the case to bring forward conflicting views.

11 MR. AXFORD: We will certainly be
12 bringing some information forward on that.

13 THE CHAIRMAN: Right.

14 MR. AXFORD: Now, I am cognizant of the
15 time here.

16 THE CHAIRMAN: One of the things the
17 Board would have to do at the end of the day is to
18 evaluate (a) what parties would like to see, what the
19 Ministry is prepared to do, and what the Board could
20 order parties or the Ministry to do within the limits
21 of what can be contemplated practically.

22 MR. FREIDIN: Mr. Chairman, if I just
23 might add, this goes to a point that has been raised I
24 think before and would have to be kept in mind when the
25 Board is considering terms and conditions.

1 It can only impose terms and conditions
2 that the Ministry can deliver on. These are going to
3 be requirements on the Ministry, there are legal
4 consequences if the Ministry doesn't deliver on those
5 terms and conditions and, therefore, obviously the
6 terms and conditions must be ones which are in the
7 control of the Ministry of Natural Resources to deliver
8 on.

9 And I think Mr. Martel made a comment
10 earlier, and this issue arose in Dryden, and Mr. Sayeau
11 admitted or indicated in response to a question either
12 from me or from the Board that what they want is
13 something which is -- they have to seek from the
14 government, it's not something that the Ministry of
15 Natural Resources delivers on.

16 MR. AXFORD: And that is precisely the
17 reason I have not offered our terms and conditions on
18 the table, I don't want somebody to prejudge what we
19 are asking for or not asking for, because we are
20 perfectly capable of making our own statements and we
21 are fully aware of what MNR is capable of doing and our
22 terms and conditions are going to be within that
23 confines.

24 And we believe that within MNR's realm or
25 within their house they are capable of doing some

1 things that are going to satisfy us or we wouldn't have
2 come here today wasting our time and yours.

3 So I am very conscious of the time and I
4 am sorry that we are not through where we wanted to go,
5 and I have to believe that we can't leave this subject,
6 that we would like to come back to it.

7 THE CHAIRMAN: All right. Well then, we
8 will continue with you next Tuesday morning.

9 MR. FREIDIN: About how long?

10 MR. AXFORD: Another hour anyway.

11 THE CHAIRMAN: All right. Then we will
12 commence with you first thing on Tuesday morning. We
13 are coming in Monday evening I believe and starting at
14 8:30 Tuesday morning.

15 Is that possible for you?

16 MR. AXFORD: It has to be. Somebody will
17 be here one way or the other. It's just too important
18 to leave.

19 THE CHAIRMAN: Very well. All right,
20 ladies and gentlemen, we will adjourn until 8:30 on
21 Tuesday morning.

22 Thank you.

23 ---Whereupon the hearing adjourned at 3:05 p.m., to be
24 reconvened on Tuesday, October 31st, 1989,
commencing at 8:30 a.m.

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